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# In Chancery of New Jersey

THE STATE OF NEW JERSEY,
*Plaintiff,*

*vs.*

JOSEPH JULIANO alias "BIG JOE"; CHRISTOPHER BARONE and LOUIS CAPOZZI, alias "KID ROFF,"
*Defendants.*

*Certificate of the Chancellor.*

On indictment and conviction in the Essex County Court of Oyer and Terminer of the crime of murder in the first degree.

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 the review of the judgment of the Essex County Court of Oyer and Terminer, convicting the said Joseph Juliano, alias "Big Joe"; Christopher Barone and Louis Capozzi, alias "Kid Roff," of the crime of murder in the first degree, and that I have refused to order a writ of error out of the New Jersey Supreme Court for the review of said judgment.

Dated at Trenton, N. J., this 15th day of December, A. D. 1926.

E. R. WALKER,
Chancellor.

## WRIT OF ERROR.

NEW JERSEY, *ss.*

The State of New Jersey to William S. Gummere, Esq., one of the (SEAL) Justices of the Supreme Court of the State of New Jersey, and to the Judges of the Court of Common Pleas of Essex County, constituting the Court of Oyer and Terminer, holden at Newark, in and for the County of Essex, of the term of September, 1926.

Because in the record and proceeding, and also in the giving of judgment upon a certain indictment against Joseph Juliano, alias Big Joe; Christopher Barone and Louis Capozzi, alias Kid Roff, late of the City of Newark, in the County of Essex aforesaid:

"For that said Joseph Juliano, alias Big Joe; Christopher Barone and Louis Capozzi, alias Kid Roff, on the 19th day of July, in the year of our Lord one thousand nine hundred and twenty-six, at the City of Newark, in the County of Essex aforesaid, did wilfully, feloniously and of malice aforethought, kill and murder George Condit 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."

*Pro ut* the said indictment whereof, before you, they, the said Joseph Juliano, alias Big Joe; Christopher Barone and Louis Capozzi, alias Kid Roff, have been indicted, and are thereof convicted by a certain jury of the county, taken between the State of New Jersey and the said Joseph Juliano, alias Big Joe; Christopher Barone and Louis Capozzi, alias Kid Roff, as it



is said, manifest error hath intervened to the great damage of the said Joseph Juliano, alias Big Joe; Christopher Barone and Louis Capozzi, alias Kid Roff, as from their complaint we have received information, we being willing, in their behalf, to correct the error in due manner, if any there shall be, and that speedy justice be done to them, the said Joseph Juliano, alias Big Joe; Christopher Barone and Louis Capozzi, alias Kid Roff, command you that if judgment be thereon given, then that you distinctly and opening send, under your seal, the record and proceedings aforesaid, with all things touching the same, and the entire record of the proceedings had upon the trial, to our Court of Errors and Appeals, in the last resort in all causes of law, to be held at Trenton, on the 4th day of January next, and this writ, that the record and proceedings as 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 New Jersey ought to be done.

WITNESS, EDWIN ROBERT WALKER, Esq., our Chancellor and the President Judge of our said Court of Errors and Appeals, at Trenton, New Jersey, this 15th day of December, 1926.

JOSEPH F. S. FITZPATRICK,
(SEAL) Clerk.

JOHN W. MCGEEHAN, JR.,
Attorney for defendants, Joseph Juliano, alias Big Joe; Christopher Barone and Louis Capozzi, alias Kid Roff.

*Return to Writ.*

Presented in open court this 16th day of December, A. D. 1926.

EDWIN C. CAFFREY,
Judge.

## RETURN.

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

I, EDWIN C. CAFFREY, Judge of the Court of Common Pleas, holding the Court of Oyer and Terminer of Essex County, New Jersey, Do HEREBY CERTIFY and return to the Court of Errors and Appeals, the court of last resort in all causes of law, the judgment, the record and proceedings aforesaid with all things touching and concerning the same; together with the entire record of the proceedings had upon the trial as by the within warrant to me directed, I am commanded.

IN WITNESS WHEREOF, I have hereuto set my hand and the seal of said court and county at Newark, this 27th day of December, A. D. 1926.

EDWIN C. CAFFREY,
Judge of the Court of Common Pleas,
holding the Court of Oyer and Terminer.



*Indictment.*

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

BE IT REMEMBERED, that at a Court of Oyer and Terminer, holden at Newark, in and for the County of Essex, on the third Tuesday in September, in the year of our Lord one thousand nine hundred and twenty-six, by the Honorable William S. Gummere, Chief Justice of the Supreme Court of Judicature of the State of New Jersey, and holding the said Court of Oyer and Terminer, in and for the County of Essex, New Jersey, by the oath of Herman H. Wellenbrink, Charles D. Altman, Jules G. Rath, Frederic J. Collins, Arthur J. Hardt, Nicholas San Jiacamo, Jos. M. Burne, Jr., Henry Jedel, Henry Randall, Wm. E. Fackert, Fredk. E. Quinby, Robert McK. Reilly, Donald McGregor, Geo. Engstrom, Wm. H. Taylor, Frank L. Quinlan, John J. Crawley, Abraham H. Puder, Thomas Gillen, Nicholas Christiano, A. Gould Harrison, Roy Castle, Simon Blum, good and lawful men of the said County of Essex, duly summoned and then and there duly sworn, and charged to enquire in behalf of the State of New Jersey, in and for the said County of Essex, it is presented in manner and form following, to wit:

Essex County, to wit:

The Grand Jurors of the State of New Jersey, for the County of Essex, upon their oath present that Joseph Juliano, alias Big Joe; Nick Joseph Juliano, alias Little Joe; Christopher Barone, Louis Capozzi, alias Kid Roff, and Robert W. Boudreau, on the nineteenth day of July, in the year of our Lord one thousand nine hundred and twenty-six, at the City of Newark, in the County of Essex aforesaid, did wilfully,

feloniously and of their malice aforethought, kill and murder George Condit, contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

J. O. BIGELOW,
Prosecutor of the Pleas.

And on the nineteenth day of October, A. D. nineteen hundred and twenty-six, on which day the said indictment was presented by the Grand Jury aforesaid to the said Court of Oyer and Terminer and the said Justice did then and there order the said indictment to be delivered to the clerk of the Court of Oyer and Terminer of said county and then and there the said indictment was delivered and duly filed by the said clerk and an entry of such delivery and filing was then and there made in the minutes of said Court, at the same time pursuant to the statute in such case made and provided.

And afterwards, that is to say, at the same session of the Court of Oyer and Terminer holden at Newark on the twenty-fifth day of October, A. D. nineteen hundred and twenty-six, before the Hon. Edwin C. Caffrey, Judge of the Court of Common Pleas, holding the Court of Oyer and Terminer of said county aforesaid, comes the said Christopher Barone, Joseph Juliano, alias Big Joe; Louis Capozzi, alias Kid Roff, and Nick Joseph Juliano, alias Little Joe, impleaded, in the custody of Harry B. O'Connell, Sheriff of the County of Essex aforesaid, in the above custody in the Jail of the County aforesaid, they have been before committed for the cause being brought to the Bar of this Court



in their own proper persons by the said Sheriff to whom they are committed, and they having heard the Indictment and being forthwith demanded of and concerning the premises in the above indictment specified and charged upon them how they would acquit themselves thereof, they say that they are Not Guilty thereof and therefore, for good and evil they put themselves upon the Country and John O. Bigelow, Prosecutor of the Pleas, for the County of Essex aforesaid, who prosecutes for the State of New Jersey in this behalf doth the like.

Therefore, let a Jury thereupon come before the Judge aforesaid, at Newark aforesaid, in the County of Essex, at the same session of the Court of Oyer and Terminer aforesaid on the fifteenth day of November, A. D. nineteen hundred and twenty-six, twelve free and lawful men, each of whom shall be a citizen of this State and a resident within the County of Essex aforesaid, above the ago 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 Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano alias Little Joe, to recognize upon their oath, whether the said Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano alias Little Joe are Guilty of the Murder in this Indictment aforesaid specified of Not Guilty because as well the said John O. Bigelow, Prosecutor of the Pleas of the County of Essex aforesaid who prosecutes for the State of New Jersey in this behalf as the said Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano alias Little Joe

put themselves upon the Jury, and on the same day and before the same Court motion for severance of trial was made by John W. McGeehan, Jr., Esq., counsel on behalf of Christopher Barone, Joseph Juliano alias Big Joe and Louis Capozzi alias Kid Roff, whereupon the Court having heard and considered said motion same was denied by the Court. Thereupon John W. McGeehan, Jr., Esq., and William A. Kavanagh, Esq., counsel for all defendants, challenged the array of jurors; Alfred C. Walker, Esq., Under Sheriff being sworn to testify as to the manner of drawing of the Special Panel in this case, whereupon the challenge was denied by the Court.

Counsel for the defendants then asked leave of the Court to withdraw the Pleas of Not Guilty entered by the defendants, whereupon the Pleas of all defendants were withdrawn for the purpose of making a motion to quash said indictment which motion to quash said Indictment was denied by the Court and Pleas of Not Guilty were re-entered by all defendants and the trial proceeded with and the same day is given to the parties aforesaid, at the same place, at which day, to wit, the fifteenth day of November, A. D. Nineteen hundred and twenty-six, at the same Term of Oyer and Terminer holden at Newark, aforesaid, in the County of Essex, before the Hon. Edwin C. Caffrey, Judge of the Court of Common Pleas, holding the Court of Oyer and Terminer, in and for the said County of Essex, comes as well the said John O. Bigelow, Prosecutor of the Pleas who prosecutes aforesaid, and the said Christopher Barone, Joseph Juliano, alias Big Joe, Louis Capozzi alias Kid Roff



and Nick Joseph Juliano, alias Little Joe, in the custody of Conrad Deutchler, Sheriff of the County aforesaid, being brought to the bar on their own proper person, by the said Sheriff, And the Jurors of the Jury by the said Sheriff for this purpose empannelled and returned, to wit: after the following challenges were made, by the State 11, by defendants, Christopher Barone 19, Joseph Juliano alias Big Joe 19, Louis Capozzi alias Kid Roff 19, Nick Joseph Juliano alias Little Joe 19, for cause 17, excused by the Court 3 and by consent 2, Jurors Robert G. Hoffman, Harold A. Waddington, Philip H. Krause, William McGrath, Robert C. Hann, Joseph H. Moore, James F. Waters, Charles Hull, Thomas R. Wilson, being called come and were sworn on that Jury who to speak the truth of and concerning the premises and thereupon Officers Gottfried Kunz, John Tully, William Albers and Charles Young were sworn to attend the jury during the trial and Court adjourned until November sixteenth, A. D. Nineteen hundred and twenty-six at 10 A. M.

And afterwards, that is to say, on the sixteenth day of November, A. D. Nineteen hundred and twenty-six, the Special Panel becoming exhausted, the Court ordered the Sheriff to draw the balance of the jury from the General Panel, whereupon the following jurors were drawn from the General Panel of Jurors and sworn as Jurors, William John Amans, Clayton S. Cadmus, William R. Ecker, being called come and were sworn on that jury who to speak the truth of and concerning the premises and thereupon two additional officers, John Moffatt and Thomas McManus were sworn to assist in at-

tending the jury during the trial and thereupon the trial of the issue commenced and continued before the said Court and Jury from day to day, until the nineteenth day of November, A. D. Nineteen hundred and twenty-six, at this stage of the Proceedings after Detective Joseph J. Kenny was sworn as a witness for the State, John W. McGeehan, Esq., of counsel moved for a mistrial which motion was denied by the Court and the trial continued from day to day until the twenty-second day of November, A. D. Nineteen hundred and twenty-six, the State having rested its case, counsel for defendants moved for a direction of a verdict, which motion was denied by the Court and the trial continued until the first day of December A. D. Nineteen hundred and twenty-six when the evidence being closed, Counsel for defendants moved for a direction of a Verdict of Not Guilty, which motion was heard and denied by the Court, thereupon the trial continued before the said Court and County until the second day of December, A. D. Nineteen hundred and twenty-six, at Newark aforesaid, the Jury in the meantime being all that time kept together and in the care of Officers of the said Court, who were selected and duly sworn by the Clerk 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 of said officers of the Court were taken to a private room to consider of their verdict, and afterwards, that is to say, on the second day of December, A. D. Nineteen hundred and twenty-six 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, John O. Bigelow, and the said Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano alias Little Joe say that "We find all the defendants Guilty of Murder in the first degree," and so they say all.

By request of defendants' Counsel, the jury was polled and each juror for himself said, "I find each defendant Guilty of Murder in the first degree," and so they say all.

Judgment signed December 2, 1926. Edwin C. Caffrey, Judge.

Whereupon, all and singular, the premises being seen, and by the Court now here fully understood, it is on this second day of December A. D. Nineteen hundred and twenty-six ORDERED and ADJUDGED that Christopher Barone, be taken to the County Jail a prison of this County from whence he came and there kept in strict custody and from thence taken by the Sheriff within ten days after the issuing of the warrant to him for that purpose and deliver him the said Christopher Barone to the principal keeper of the State Prison to be kept by him in solitary confinement until the week beginning January sixteenth, nineteen hundred and twenty-seven, and upon some day within said week, at his discretion as to time within the walls of the building provided by the Board of Prison Inspectors of the State Prison for that purpose, or within the yard or enclosure adjoining thereto, the principal keeper of the State Prison shall execute the punishment of death upon the said Christopher Barone by causing to pass through his body a current of

electricity of sufficient intensity to cause death as speedily as possible, the application of such current to be continued until he the said Christopher Barone is dead.

"May God have Mercy upon your soul."

And do further Order and Adjudge that the said Joseph Juliano, alias Big Joe be taken to the County Jail a prison of this County from whence he came and there kept in strict custody and from thence taken by the Sheriff within ten days after the issuing of this warrant to him for that purpose and deliver him, the said Joseph Juliano alias Big Joe to the principal keeper of the State Prison to be kept by him in solitary confinement until the week beginning Sunday January 16, Nineteen hundred and twenty-seven, and upon some day within the said week, at his discretion as to time within the walls of the building provided by the Board of Inspectors of the State Prison for that purpose, or within the yard or enclosure adjoining thereto, the principal keeper of the State Prison shall execute the punishment of death upon the said Joseph Juliano alias Big Joe by causing to pass through his body a current of electricity of sufficient intensity to cause death as speedily as possible, the application to continue until he the said Joseph Juliano alias Big Joe is dead.

"And may the Lord have Mercy upon your soul."

And do further Order and Adjudge that the said Louis Capozzi alias Kid Roff be taken to the County Jail a prison of this County from whence he came and there kept in strict custody and from thence taken by the Sheriff within



ten days after the issuing of this warrant to him for that purpose and deliver him the said Louis Capozzi alias Kid Roff to the principal keeper of the State Prison to be kept by him in solitary confinement until the week beginning Sunday, January 16, 1927 and upon some day within the said week at his discretion as to time, within the walls of the building provided by the Board of Prison Inspectors of the State Prison for that purpose, or within the walls or inclosure adjoining thereto, the principal keeper shall execute the punishment of death upon the said Louis Capozzi alias Kid Roff, by causing to pass through his body a current of electricity of sufficient intensity to cause death as speedily as possible the application of such current to be continued until he the said Louis Capozzi alias Kid Roff is dead.

"And may the Lord have mercy upon your soul."

And do further Order and Adjudge that the said Nick Joseph Juliano alias Little Joe be taken to the County Jail a prison of this County from whence he came and there kept in strict custody and from thence taken by the Sheriff within ten days after the issuing of this warrant to him for that purpose and deliver him the said Nick Joseph Juliano alias Little Joe to the principal keeper of the State Prison to be kept by him in solitary confinement until the week beginning January 16, 1927, and upon some day within the said week, at his discretion as to time, within the walls of the building provided by the Board of Prison Inspectors for that purpose or within the yard or enclosure adjoining thereto the principal keeper of the State Prison

shall execute the punishment of death upon the said Nick Joseph Juliano alias Little Joe by causing to pass through his body a current of electricity of sufficient intensity to cause death as speedily as possible, the application of such current to continue until he the said Nick Joseph Juliano is dead.

"And may the Lord have Mercy upon your soul."



IN CHANCERY OF NEW JERSEY.

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|---|---|
| STATE OF NEW JERSEY, *Defendant-in-Error,* *v.* NICHOLAS JOSEPH JULIANO, *Plaintiff-in-Error.* | *On Indictment for Murder.* *Certificate of Chancellor.* |

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 Essex County Court of Oyer and Terminer, convicting the said Nicholas Joseph Juliano of the crime of murder in the first degree, without exhibiting to me the record of the proceedings in the cause or any part thereof, and without alleging any error in those proceedings, and that I have refused to order a writ of error for the review of said judgment, solely because no cause, arguable or otherwise, is shown for the granting of such writ of error to the Supreme Court.

Dated: December 7th, 1926.

EDWIN R. WALKER,
Chancellor.

## WRIT OF ERROR.

NEW JERSEY, *ss.*

The State of New Jersey, to the Judges of the Court of Common Pleas
(L. S.) of the County of Essex, constituting the Court of Oyer and Terminer, holden at Newark, in and for the County of Essex, of the term of September, in the year of Our Lord nineteen hundred twenty-six, GREETING:

Because in the record and proceedings, and also in giving judgment upon a certain indictment in our said Court of Oyer and Terminer against Nicholas Joseph Juliano, late of the City of Newark, in the County of Essex, of a certain felony and murder whereby the said Nicholas Joseph Juliano is charged with the murder of one George Condit, the said Nicholas Joseph Juliano before you has been indicted and is thereof convicted by a certain jury of the County taken between the State of New Jersey and the said Nicholas Joseph Juliano, as it is said, manifest error hath intervened to the great damage of the said Nicholas Joseph Juliano, as from his complaint we have received information, we being willing, in his behalf to correct the error in due manner, if any there shall be and that speedy justice be done to him, the said Nicholas Joseph Juliano, command you that if judgment be thereon given, that you distinctly and openly send, under your seal, the record and proceedings aforesaid, with all things touching the same, including the entire record of the proceedings had upon the trial and the charge of the trial judge upon said trial and the exceptions at said trial taken, to our Court



of Errors and Appeals in the last resort in all cases of law, to be held at Trenton, on the 27th day of December, 1926, together with this writ, that the record and proceedings aforesaid be inspected, we may further cause to be done thereupon, for correcting that error, what of right and according to the laws and customs of New Jersey ought to be done.

WITNESS, EDWIN ROBERT WALKER, our Chancellor and President Judge of our said Court of Errors and Appeals, at Trenton, this 7th day of December, nineteen hundred and twenty-six.

JOSEPH F. S. FITZPATRICK,
Clerk.

WILLIAM A. KAVANAGH,
Atty. of Plaintiff-in-Error.

Presented in open court this 8th day of Dec., 1926.

EDWIN C. CAFFREY,
Judge.

## RETURN.

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

I, EDWIN C. CAFFREY, Judge of the Court of Common Pleas, holding the Court of Oyer and Terminer of Essex County, New Jersey, Do HEREBY CERTIFY and return to the Court of Errors and Appeals, the Court of last resort in all causes of law, the Judgment, the record and proceedings aforesaid with all things touching and concerning the same; together with the entire record of the proceedings had upon the trial

*Indictment.*

as by the within Writ to me directed, I am commanded.

In Witness Whereof, I have hereunto set my hand and the seal of said Court and County at Newark this 27th day of December, A. D. 1926.

EDWIN C. CAFFREY,
(seal) Judge of the Court of Common Pleas holding the Court of Oyer and Terminer.

State of New Jersey, }
County of Essex. } *ss.*

Be It Remembered, that at a Court of Oyer and Terminer, holden at Newark, in and for the County of Essex, on the third Tuesday in September, in the year of our Lord one thousand nine hundred and twenty-six, by the Honorable William S. Gummere, Chief Justice of the Supreme Court of Judicature of the State of New Jersey, and holding the said Court of Oyer and Terminer, in and for the County of Essex, New Jersey, by the oath of Herman H. Wellenbrink, Charles D. Altman, Jules G. Rath, Frederic J. Collins, Arthur J. Hardt, Nicholas San Jaicamo, Jos. M. Burne, Jr., Henry Jedel, Henry Randall, Wm. E. Fackert, Fredk. E. Quinby, Robert McK. Reilly, Donald McGregor, Geo. Engstrom, Wm. H. Taylor, Frank L. Quinlan, John J. Crawley, Abraham H. Puder, Thomas Gillen, Nicholas Christiano, A. Gould Harrison, Ray Castle, Simon Blum, good and lawful men of the said County of Essex, duly summoned and then and there duly sworn, and charged to enquire in behalf of the State of New Jersey, in and for the said County of Essex, it is presented in manner and form following, to wit:



*Indictment.*

Essex County, to wit:

The Grand Jurors of the State of New Jersey, for the County of Essex, upon their oath present that Joseph Juliano alias Big Joe, Nick Joseph Juliano alias Little Joe, Christopher Barone, Louis Capozzi alias Kid Roff and Robert W. Boudreau on the nineteenth day of July, in the year of our Lord one thousand nine hundred and twenty-six, at the City of Newark in the County of Essex aforesaid did wilfully, feloniously and of their malice aforethought, kill and murder George Condit—contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

J. O. BIGELOW,
Prosecutor of the Pleas.

And on the nineteenth day of October, A. D. Nineteen hundred and twenty-six, on which day the said Indictment was presented by the Grand Jury aforesaid to the said Court of Oyer and Terminer and the said Justice did then and there order the said Indictment to be delivered to the Clerk of the Court of Oyer and Terminer of said County and then and there the said Indictment was delivered and duly filed by the said Clerk and an entry of such delivery and filing was then and there made in the minutes of said Court, at the same time pursuant to the statute in such case made and provided.

And afterwards, that is to say, at the same session of the Court of Oyer and Terminer holden at Newark on the twenty-fifth day of October, A. D. Nineteen hundred and twenty-six, before the Hon. Edwin C. Caffrey, Judge of

the Court of Common Pleas, holding the Court of Oyer and Terminer of said County aforesaid, comes the said Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano alias Little Joe, impleaded, in the custody of Harry B. O'Connell, Sheriff of the County of Essex aforesaid, in the above custody in the Jail of the County aforesaid, they have been before committed, for the cause being brought to the Bar of this Court in their own proper persons by the said Sheriff to whom they are committed, and they having heard the Indictment and being forthwith demanded of and concerning the premises in the above indictment specified and charge upon them how they would acquit themselves thereof, they say that they are Not Guilty thereof and therefore, for good and evil they put themselves upon the Country and John O. Bigelow, Prosecutor of the Pleas, for the County of Essex aforesaid, who prosecutes for the State of New Jersey in this behalf doth the like.

Therefore, let a Jury thereupon come before the Judge aforesaid, at Newark aforesaid, in the County of Essex, at the same session of the Court of Oyer and Terminer aforesaid on the fifteenth day of November, A. D. Nineteen hundred and twenty-six, twelve free and lawful men, each of whom shall be a citizen of this State and a resident within the County of Essex 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 Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano



alias Little Joe, to recognize upon their oath, whether the said Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano alias Little Joe are Guilty of the Murder in this Indictment aforesaid specified or Not Guilty because as well the said John O. Bigelow, Prosecutor of the Pleas of the County of Essex aforesaid who prosecutes for the State of New Jersey in this behalf as the said Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano alias Little Joe put themselves upon the Jury, and on the same day and before the same Court motion for severance of trial was made by John W. McGeehan, Jr., Esq., Counsel on behalf of Christopher Barone, Joseph Juliano alias Big Joe and Louis Capozzi alias Kid Roff, whereupon the Court having heard and considered said motion same was denied by the Court. Thereupon John W. McGeehan, Jr., Esq., and William A. Kavanagh, Esq., Counsel for all defendants challenged the array of jurors; Alfred C. Walker, Esq., Under Sheriff being sworn to testify as to the manner of drawing of the Special Panel in this case, whereupon the challenge was denied by the Court.

Counsel for the defendants then asked leave of the Court to withdraw the Pleas of Not Guilty entered by the defendants, whereupon the Pleas of all defendants were withdrawn for the purpose of making a motion to quash said indictment which motion to quash said Indictment was denied by the Court and Pleas of Not Guilty were re-entered by all defendants and the trial proceeded with and the same day is given to

the parties aforesaid, at the same place, at which day, to wit, the fifteenth day of November, A. D. Nineteen hundred and twenty-six, at the same Term of Oyer and Terminer holden at Newark, aforesaid, in the County of Essex, before the Hon. Edwin C. Caffrey, Judge of the Court of Common Pleas, holding the Court of Oyer and Terminer, in and for the said County of Essex, comes as well the said John O. Bigelow, Prosecutor of the Pleas who prosecutes aforesaid, and the said Christopher Barone, Joseph Juliano, alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano, alias Little Joe, in the custody of Conrad Deutchler, Sheriff of the County aforesaid, being brought to the bar on their own proper person, by the said Sheriff. And the Jurors of the Jury by the said Sheriff for this purpose empannelled and returned, to wit; after the following challenges were made, by the State 11, by defendants, Christopher Barone 19, Joseph Juliano alias Big Joe 19, Louis Capozzi alias Kid Roff 19, Nick Joseph Juliano alias Little Jone 19, for cause 17, excused by the Court 3 and by consent 2, Jurors Robert G. Hoffman, Harold A. Waddington, Philip H. Krause, William McGrath, Robert C. Hann, Joseph H. Moore, James F. Waters, Charles Hull, Thomas R. Wilson, being called come and were sworn on that Jury who to speak the truth of and concerning the premises and thereupon Officers Gottfried Kunz, John Rully, William Albers and Charles Young were sworn to attend the jury during the trial and Court adjourned until November sixteenth, A. D. Nineteen hundred and twenty-six at 10 A. M.



And after-wards, that is to say, on the sixteenth day of November, A. D. Nineteen hundred and twenty-six, the Special Panel becoming exhausted, the Court ordered the Sheriff to draw the balance of the jury from the General Panel, whereupon the following jurors were drawn from the General Panel of Jurors and sworn as Jurors, William John Amans, Clayton S. Cadmus, William R. Ecker, being called come and were sworn on that jury who to speak the truth of and concerning the premises and thereupon two additional officers, John Moffatt and Thomas McManus were sworn to assist in attending the jury during the trial and thereupon the trial of the issue commenced and continued before the said Court and Jury from day to day, until the nineteenth day of November, A. D. Nineteenth hundred and twenty-six, at this stage of the Proceedings after Detective Joseph J. Kenny was sworn as a witness for the State, John W. McGeehan, Esq., of counsel moved for a mistrial which motion was denied by the Court and the trial continued from day to day until the twenty-second day of November, A. D. Nineteen hundred and twenty-six, the State having rested its case, counsel for defendants moved for a direction of a verdict, which motion was denied by the Court and the trial continued until the first day of December A. D. Nineteen hundred and twenty-six when the evidence being closed, Counsel for defendants moved for a direction of a Verdict of Not Guilty, which motion was heard and denied by the Court, thereupon the trial continued before the said Court and County until the second day of December, A. D. Nineteen hundred and twenty-six, at Newark aforesaid, the Jury in the meantime being all that

time kept together and in the care of Officers of the said Court, who were selected and duly sworn by the Clerk 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 of said officers of the Court were taken to a private room to consider of their verdict, and afterwards, that is to say, on the second day of December, A. D. Nineteen hundred and twenty-six, 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, John O. Bigelow, and the said Christopher Barone, Joseph Juliano alias Big Joe, Louis Capozzi alias Kid Roff and Nick Joseph Juliano alias Little Joe say that "We find all the defendants Guilty of Murder in the first degree," and so they say all. By request of defendants' Counsel, the jury was polled and each juror for himself said, "I find each defendant Guilty of Murder in the first degree," and so they say all.

Judgment signed Dec. 2, 1926.
Edwin C. Caffrey, Judge.

Whereupon, all and singular, the premises being seen and by the Court now here fully understood, It is on this second day of December, A. D. Nineteen hundred and twenty six ORDERED and ADJUDGED that Christopher Barone, be taken to the County Jail a prison of this County from whence he came and there kept in strict custody and from thence taken by the Sheriff within ten days after the issuing of the warrant to him for that purpose and deliver him the said Christopher Barone to the principal keeper of the State Prison to be kept by him in solitary confinement until the week beginning January sixteenth, nineteen hundred and twenty-seven, and upon some day within said week, at his discretion as to time within the walls of the building provided by the Board of Prison Inspectors of the State Prison for that purpose, or within the yard or enclosure adjoining thereto, the principal keeper of the State Prison shall execute the punishment of death upon the said Christopher Barone by causing to pass through his body a current of electricity of sufficient intensity to cause death as speedily as possible, the application of such current to be continued until he the said Christopher Barone is dead.

"May God have Mercy upon your soul."



And do further Order and Adjudge that the said Joseph Juliano, alias Big Joe be taken to the County Jail a prison of this County from whence he came and there kept in strict custody and from thence taken by the Sheriff within ten days after the issuing of this warrant to him for that purpose and deliver him, the said Joseph Juliano alias Big Joe to the principal keeper of the State Prison to be kept by him in solitary confinement until the week beginning Sunday January 16, Nineteen hundred and twenty-seven, and upon some day within the said week, at his discretion as to time within the walls of the building provided by the Board of Inspectors of the State Prison for that purpose, or within the yard or enclosure adjoining thereto, the principal keeper of the State Prison shall execute the punishment of death upon the said Joseph Juliano alias Big Joe by causing to pass

through his body a current of electricity of sufficient intensity to cause death as speedily as possible, the application to continue until he the said Joseph Juliano alias Big Joe is dead.

"And may the Lord have mercy upon your soul."

And do further Order and Adjudge that the said Louis Capozzi alias Kid Roff be taken to the County Jail a prison of this County from whence he came and there kept in strict custody and from thence taken by the Sheriff within ten days after the issuing of this warrant to him for that purpose and deliver him the said Louis Capozzi alias Kid Roff to the principal keeper of the State Prison to be kept by him in solitary confinement until the week beginning Sunday, January 16, 1927 and upon some day within the said week at his discretion as to time, within the walls of the building provided by the Board of Prison Inspectors of the State Prison for that purpose, or within the walls or enclosure adjoining thereto, the principal keeper shall execute the punishment of death upon the said Louis Capozzi alias Kid Roff by causing to pass through his body a current of electricity of sufficient intensity to cause death as speedily as possible the application of such current to be continued until he the said Louis Capozzi alias Kid Roff is dead.

"And may the Lord have mercy upon your soul."

And do further Order and Adjudge that the said Nick Joseph Juliano alias Little Joe be taken to the County Jail a prison of this County from whence he came and there kept in strict



custody and from thence taken by the Sheriff within ten days after the issuing of this warrant to him for that purpose and deliver him the said Nick Joseph Juliano alias Little Joe to the principal keeper of the State Prison to be kept by him in solitary confinement until the week beginning January 16, 1927, and upon some day within the said week, at his discretion as to time, within the walls of the building provided by the Board of Prison Inspectors for that purpose or within the yard or enclosure adjoining thereto the principal keeper of the State Prison shall execute the punishment of death upon the said Nick Joseph Juliano alias Little Joe by causing to pass through his body a current of electricity of sufficient intensity to cause death as speedily as possible, the application of such current to continue until he the said Nick Joseph Juliano is dead.

"And may the Lord have mercy upon your soul."

ESSEX COUNTY COURT OF OYER AND TERMINER.

Monday, November 15, 1926.

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| STATE OF NEW JERSEY,<br>*vs.*<br>CHRISTOPHER BARONE, JOSEPH JULIANO, alias BIG JOE, LOUIS CAPOZZI, NICK JOSEPH JULIANO, alias LITTLE JOE. | *On Indictment No. 276, Sep. T, 1926, for Murder.* |

Before Hon. Edwin C. Caffrey, Judge, and a jury.

For the State appears John O. Bigelow, Prosecutor of the Pleas of Essex County, and Simon L. Fisch, Second Assistant.

For the defendants Christopher Barone, Joseph Juliano and Louis Capozzi appears John McGeehan, Jr.

For the defendant Nick Joseph Juliano appears William A. Kavanagh.

Mr. Bigelow: Your Honor, in the case of State *v.* Barone, Capozzi and Juliano, I understand Mr. McGeehan has a motion to make.

Mr. McGeehan: May it please the Court, I desire to move, on behalf of Joseph Juliano, Christopher Barone and Louis Capozzi, for a separate trial and a severance of the indictment, severed from the other or one of the two other defendants jointly indicted with them, Nicholas Joseph Juliano, and I make this application pursuant to Section 64 of the Criminal Procedure act, and present to your Honor the affidavit in the form that the statute calls for.



Mr. Bigelow: Have you a copy of that, Mr. McGeehan?

Mr. McGeehan: I have, Mr. Prosecutor.

The Court: I take it, Mr. McGeehan, this is discretionary with the Court.

Mr. McGeehan: I wish to submit my views on that subject. The cases arising out of applications for a severance, many of them, hold that the application is addressed to the discretion of the Court, but I think an examination of these cases will reveal that they are applications made upon a general statement, without the production of the affidavit called for by the statute. In such cases it is discretionary with the Court, either on motion of the State or motion of the defendant, but this statute states that when such affidavits shall be filled, to wit: to the effect that there is jointly indicted with the applicant a material witness, or a person who, as he verily believes, and is advised by counsel, is a material witness or witnesses for him on the trial of his indictment, and without whose testimony he cannot safely proceed to trial, shall—the mandatory verb is used—by order of said Supreme Court, be allowed a trial separate from the person or persons whom he shall so indicate as such material witness or witnesses. In the State *v.* Kerr, the question might arise whether or not your Honor as the Court of Oyer and Terminer would have the power under or would be bound by this particular statute, and in the State v. Kerr, in the opinon of Justice Dixon, 24 N. J. L. Journal 435—

The Court: That is the Paterson case, Mr. McGeehan?

Mr. McGeehan: That is the Passaic Oyer and Terminer.

Mr. Bigelow: What is the date of that?

Mr. McGeehan: 1901. That is a case arising under this particular statute, and without reading the language of Justice Dixon, he holds that it is binding upon the Court of Oyer and Terminer, and states that the statute is virtually mandatory and in such case he granted the application, and, in this case I have presented the affidavit which states that these three defendants are advised by me and believe that the testimony of that other defendant named in the affidavit, and in the indictment, is necessary for their proper defense, and that situation comes exactly within the language of that statute. I ask not separate trials for each one, but separate trials for the three men that I represent from this other defendant. I want to ask, also, that which is not included in the affidavit, but I want to add also that there may be testimony of witnesses for the State referring to alleged statements that may have been made by this other defendant of which we have no knowledge and which should not, if such may be testified to, be binding upon these defendants.

The Court: Oh, well, of course that could be taken care of fully enough by a ruling of the Court.

Mr. McGeehan: Under the circumstances which existed in the Kerr case, the application was granted, and I think we come right within the act of the legislature passed for this particular purpose, and I think we should be granted separate trials.

Mr. Bigelow: Your Honor, this statute, if I recall correctly, was passed by the legislature a great many years ago, at a time when the law of this State was that a defendant could not



testify in his own behalf or in behalf of co-defendants if he himself was on trial, so that it was necessary, in order that one defendant should have the benefit of the testimony of a co-defendant, that there be a severance. The purpose of the statute, I think is clear, and it is recognized in this affidavit. These defendants, without a severance—I mean by these defendants Barone, Joseph Juliano and Capozzi, can have all the benefit of the testimony of Nicholas Joseph Juliano that they may have if there were a severance granted. It seems to me that this statute should be construed in the light of the law as it exists at the time it was passed and it does not in its terms apply to this Court and no reason, no substantial reason, appears why the severance should be granted, and the State asks that the motion be denied.

Mr. McGeehan: May I say, in answer to that question, that the other defendants in this case cannot compel Nicholas Joseph Juliano to testify as a witness for them, if he be a defendant in this proceeding, and that is the present law of the State. I do not agree with the prosecutor that when this law was passed a witness was not competent in his own behalf. That has never been the situation in the State of New Jersey and at the present time, if he is a needed witness, we cannot compel him to testify; we cannot subpoena him, or your Honor has no power to make him testify to whatever facts we want to adduce from him as a witness, and we want to have the right to compel him to testify in the trial of this case, and that is why that statute is on the books, and that is why we need it to be put in operation.

The Court: I will deny the motion. The facts before me are not sufficient, or rather the facts presented are not sufficient, in my judgment to warrant a severance.

Mr. McGeehan: I ask for an exception.

Counsel for the defendants Barone, Capozzi and Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. McGeehan: May it please the Court, I desire at this time in behalf of the three defendants I represent, to present my formal motion for a further postponement of this case, or a postponement in this case, in order to enable the defense to completely and adequately and properly prepare its case. We have worked upon this day and night, since the date set for the trial and we have been given three weeks in which to get it in shape, and the State, of course, had the police department which assisted it and the police department which assisted, has been working on this case since the alleged crime occurred. We had to go into it three weeks ago when they were called upon to plead and we have done a great deal of work in preparation for the trial of the case, and if we are forced to try it, we can go on, but we want to tell your Honor that where in a case as serious in all of its aspects as this is, a statement of counsel on the first day set for trial of the case, that he feels he should have another week or two weeks in which to become completely ready for the trial of the case, should be considered by the Court,



and the application for an adjournment which I now make should be granted in justice to these defendants.

Mr. Kavanaugh: If it please the Court, in behalf of the defendant Nicholas Joseph Juliano, whom I represent, I desire to say to your Honor that I concur most heartily in the application made by my colleague, Mr. McGeehan. These defendants were apprehended a little over three weeks ago and charged with this most serious crime. The young man whom I represent, unfortunately for him, has not all of the resources that will enable his counsel and enable those who are interested in proper and adequate defense for him to, in the greatest measure, obtain the evidence and testimony which will be adduced before this Court to show that the young man is absolutely innocent. I say to your Honor, in view of the fact that such a short time, three weeks, has intervened in between the time these men were apprehended and the day set for trial, and in view of the fact, as Mr. McGeehan said that we have worked courageously and strenuously with all of the might in our power for three weeks to in some measure prepare a proper and adequate defense for these defendants—now, I submit to your Honor that as far as I am concerned, I tell your Honor frankly, candidly, and open and above board that I have not had adequate time to properly prepare for this young man's defense. As I understand it, and as it is generally admitted, according to the newspapers, one of the State's witnesses who will testify against these defendants has a police record throughout different states of this Union, and we have been unable in this short time to ascertain in any degree whatsoever, probably in a slight

degree, the character and habits and former accomplishments, I mean criminal accomplishments, of this State's witness who was indicted with these defendants. I say to your Honor it is not fair; it is not fair to my client, and it is not fair to the other defendants—

The Court: Just a moment, Mr. Kavanaugh. If you have any legal grounds to base that statement on, make them; we are not to go into a general discussion of fairness or unfairness.

Mr. Kavanaugh: Well, I say to your Honor, as far as the legal grounds are concerned, I have never before in my practice at the Bar of New Jersey heard of a time, in a murder case, when a defendant or defendants have been granted only the short space of three weeks to prepare a defense for such a serious charge. Now, this young man, whom I represent, Nicholas Joseph Juliano, is a young man twenty-seven years of age, who before the United States went into—

The Court: Now, just a moment. I asked you a minute ago to confine your remarks to some legal ground. I don't care for a general speech.

Mr. Kavanaugh: Well, as far as the legal grounds are concerned, I say to your Honor it is absolutely unknowable; it is absolutely uncomprehensive to believe that any court would not give a defendant more than three weeks to prepare a proper and adequate defense on a murder case. I say to this Court now and at this time that we have not been properly and fully and ably been prepared in this case in the short time that has been given to us and I respectfully submit that we ought to have at least another week in order, as I said before, to go into a trial



and to attempt to ascertain the former record of this State's witness who was indicted—

The Court: What efforts have you made to obtain this record?

Mr. Kavanaugh: We have made all the efforts that are in our power to make in the short time that has been granted to us, but I say to your Honor the time has not been adequate. We have to go to other cities to glean some information about the former character and reputation of this young man, and we have been unable to do so in so short a space of time. I respectfully submit to your Honor that in the interest of right and justice that there ought to be at least another week given to these defendants to prepare their defense.

Mr. Bigelow: Your Honor, if Mr. Kavanaugh has been unable to find the criminal record of the witness to whom he refers in three weeks, the reason is probably that the criminal record is non-existant or is less than what Mr. Kavanaugh suspects it to be.

Mr. McGeehan: I object to that statement in the presence of a jury that is about to be empaneled. I don't think this case should be summed up or argued now.

The Court: After all, this case will be decided on the evidence and the jury will be so instructed.

Mr. McGeehan: I did not argue about any evidence that could be shown to the jury. We will show that he has a similar record.

Mr. Bigelow: Then, if Mr. McGeehan has the criminal record, I take it the application falls—

Mr. McGeehan: We want the complete criminal record.

Mr. Bigelow: These defendants were arrested on the 16th day of October, one month ago tomorrow. They were brought here three weeks ago. It seems to me that is ample time. Justice should be prompt, and three weeks is certainly sufficient time for these men to get together their witnesses and arrange their cases for trial in court and the State objects to the motion and ask that the Court overrule it.

The Court: The motion will be denied.

Counsel for the defendants, Christopher Baone and Joseph Juliano and Louis Capozzi prays our exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for the defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. McGeehan: May it please the Court, I have a challenge to the array that I have put in writing.

(The challenge reads as follows:)

Defendants, Joseph Juliano alias Big Joe, Christopher Barone, and Louis Capozzi alias Kid Ruff challenge the array of jurors drawn for the trial of the indictment in this cause and move to quash the said array upon the ground



that their array was not drawn on the special panel of jurors served upon the defendants was not drawn legally for the following reasons:

1. Said special panel served upon the defendants was not drawn in the presence of the judge or the clerk of the Court of Quarter Sessions of Oyer and Terminer as required by statute 2.

2. Said special panel was not drawn from the panel of jurors that "May have been drawn and summoned to attend as jurors at the term for which such defendants are to be tried," but instead was drawn from a box containing only the names of a portion of this general panel.

ALFRED C. WALKER, sworn in behalf of the defendant.

*By Mr. McGeehan.*

Q You are the under-sheriff of Essex County? A I am one of them, yes.

Q And you were such when the special panel was drawn for the trial of this case? A Yes.

Q And did you officiate at the drawing of the special panel? A I did.

Q From what list did you draw the special panel? A I drew it from the panel which was drawn—the full panel.

Q By the full panel, what do you mean? A I mean the panel which was drawn in court on December 8th.

Q That is a list of 150 jurors' names? A 150.

Q For the two-week period that includes this date? A That is right.

Q Did that list have 150 names of November 8th include all of the jurors who have been called

and sworn for this term of court for the opening of the term to the present date? A No, it didn't.

Q There had been approximately how many names of jurors who have been called and who have been jurors this term of court prior to this list? A Well, I could not tell without getting my record from the office.

Q How many panels have there been? A This is the fourth.

Q So there have been 450 jurors previously drawn during this present term? A Well, I could not be sure of that until I got the list. It may be more than four.

Q Well, it is at least the fourth? A Yes.

Q And it might be 150 names? A Sometimes it varies.

Q Now, at the time you drew this list from the portion of the panel of 150 names, what day of the week did you draw them? A I drew it on Wednesday afternoon.

Q What is the date? A I drew it on November 10, 1926.

Q That was Wednesday? A That was Wednesday afternoon.

Q Now, when has the Court excused various members of that list during that week before that?

Mr. Bigelow: I object.

Mr. McGeehan: I will withdraw that question.

Q Sheriff, when you make up a special panel, you do not do it until after reasons have been presented to the Court to excuse certain jurors for that period or part of the period? A No; we draw from the 150 ballot.



Q And if jurors have been excused, are their names put in the box or not? A Yes.

Q Even if they have been excused? A Yes.

Q Now, when this panel was drawn, it was drawn in the presence of Mr. Mahr? A No. I drew this in the presence of the county clerk himself.

The Court: You mean this panel 48?

Witness: This panel of 48 I drew in the presence of Mr. Scott, the county clerk.

Q That is, on this particular case? A On this case.

Q You usually draw it in the presence of the deputy? A Yes, but the county clerk was present and we used him.

Q You remember that particularly in this case? A Oh, I know that.

Mr. McGeehan: I withdraw the first ground for the challenge of the array on the ground that the jury was not drawn in the presence of the judge or the clerk of the court.

Upon the second ground, I want to submit to your Honor that the statute under which a special panel is drawn requires giving the steps, such as drawing from the box and so forth, that it shall be drawn from the special panel of jurors that may have been drawn and summoned to attend as jurors at the term at which said defendant is to be tried.

My contention is that while the Chancellor Commissioner Jury Act gives the right to the justice to designate what portion of the particular term a certain number of the list

previously certified shall serve and to specify an additional number from time to time for the two-week period, they have been called, and sworn for and during that term that the special panel be and require it to be drawn from the general panel of jurors that may have been drawn and summoned to attend as jurors at the term at which said defendant is to be tried, requires all of those names.

The Court: Then, do I understand you insist all this panel could be legally drawn from the jurors who have been summoned since the opening of the term in September?

Mr. McGeehan: Yes, sir. Now, the only time I can find a precedent for this motion is in the D'Alessio case when that was moved for a murder trial the counsel for the defense raised this question at the time because they had the same method of drawing jurors in Passaic County that we have here, and Justice Black in considering it, decided in favor of the motion and that was the reason for the postponement of that trial so that the jury, to avoid any question of the legality of the drawing, could be summoned from the entire panel, and in view of that section 82 of the statute calling for a special panel includes all steps that must be taken and specifically states what it does, not that it shall be taken from a part of the panels of the term or a two-week list of jurors. I think this motion should prevail and the array should be quashed.

Mr. Bigelow: This is a surprising motion and perhaps I have not as complete a statement of the law as I should have if I had



known it was to be made. As I understand it, counsel contends that the special list of forty-eight names should be chosen from a group of 500 names, more or less—550 or 600 who had served here as jurors since the opening day of September, most of whom are no longer serving, who have been excused from their service. It certainly cannot be the contention of the statute that a man who is not required to serve here today shall be included on the list of forty-eight names given the defendant. There is no provision in the statute, I believe, for the summoning to court of these forty-eight names. The forty-eight names are drawn from those already summoned and it certainly is the intention of the statute to be drawn from not only those who have been summoned or who have been served during the term; in other words, it would be a mere mockery to draw on the names who have served since September, and perhaps gone to Europe since then. Mr. Fisch tells me that he understands rather differently the postponement of that D'Alessio case, that there they had not a whole list of 150 names of the then existing panel in the box when the forty-eight names were drawn.

The Court: What effect has the statute which permits the drawing of a new panel every two weeks with reference to that act which was at first prepared?

Mr. McGeehan: I was considering that, your Honor's point being that this statute preceded the Chancellor Jury Act. I do not think that it has any effect from the precise wording of the statute. The Chancellor

Commissioner Jury Act makes provision for a jury for a term; that is, the beginning of it provides for a list to be certified beforehand, and that list shall be the list for the term, consisting of the number of jurors that the judge says will be needed in that term of court. That is the procedure followed in most of the smaller counties, but in the larger counties there is a practice to specify that a list shall be drawn to serve for a portion of the term, and he may use other lists to serve for another portion of the term, and the regular service, therefore, is limited to two weeks at a time, but when a special panel has to be drawn, there having been an existing statute saying that the special panel must be drawn from the general panel of jurors who may have been called to serve at that term of court, that statute being on the books, the Legislature, if it intended to change that act, would do so specifically, would say that the special panel drawn to serve for a portion of the term shall be a sufficient general list, the names of which shall be taken to draw the panel from. Now, there is not any real hardship to be worked from the following of the precise wording of this statute, because whenever a special panel would have to be drawn, the only requirement is that all of the names of the jurors—they are not called at the time—should be put in the box and the special panel drawn from that box, and from that list, and then when such special panel shall be arrived at, even though certain names upon it would not be then serving on their regular duty at that time, it would be no hardship.



The Court: Wouldn't it be rather an empty proceeding?

Mr. McGeehan: No, sir.

The Court: Suppose these 500 names were put in the box, would you say that those men who have already served as jurors under the act under which we are operating, are still jurors?

Mr. McGeehan: The statute requires giving the steps, such as drawing from the box and so forth, that it shall be drawn from the general panel of jurors that may have been drawn and summoned to attend as jurors at the term at which said defendant is to be tried.

Mr. Bigelow: I know of no practice to bring them back into court.

Mr. McGeehan: The practice would be that they be summoned.

The Court: Well, you would have to bring them back for the issuance of a new venire, because the provision of the Chancellor Act, the termination of service discharges them automatically as jurors.

Mr. McGeehan: They are subject to call.

The Court: Yes, but you would have to call them in the manner prescribed.

Mr. McGeehan: They would be called in the manner they are called to try the case, because the statute says the Court may draw jurors.

Mr. Bigelow: What provision of the statute, the provision of section 82, is that the special list of forty-eight names shall be drawn from the general panel of jurors that may have been drawn and summoned to at-

tend as jurors at the term at which said defendant is to be tried. The same phraseology used in the next section, which provides that when the special panel of forty-eight is exhausted, then talesmen shall be taken from the general panel of jurors returned for the term at which such defendant is to be tried. In other words, if Mr. McGeehan's argument is, as a matter of fact, that the forty-eight must be taken from the 600, then the rest of the 600 must be here in court today, and then could be drawn after the forty-eight are drawn. It seems to me that that is absurd. The statute could not have intended such a list.

The Court: I will rule against your motion.

Defendants' counsel pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. McGeehan: I would like to withdraw the pleas previously entered for the purpose of making a motion to quash.

The Court: It is rather late now, is it not, after these preliminary motions?

Mr. McGeehan: No, sir; I would not think so. All of these motions should precede a motion to quash.

The Court: There is no harm to be done. I will let you withdraw your plea.

Mr. McGeehan : I move to quash the indictment on the ground that it charges said persons in the statutory language with the



crime of murder, and that there has been served upon the defendants in this case a bill of particulars to the effect that the defendant in committing or attempting to commit robbery killed the deceased. Later on it gives the site and alleged time of the crime, and it says that the State is unable to specify with certainty which of the defendants fired the fatal shot, thereby showing that there was a shot fired by some one of the defendants alleged by the State and it cannot say which particular one. That being the case, the indictment charges them with the crime of murder under the Caprino theory. I mean that is the law that anyone participating in a robbery or other crime resulting in death, shall be found guilty of murder if found guilty of the fact. I am not disputing that question of law. If these defendants or any of them are charged because they were present aiding and abetting or because they were accessories to the act of a person who is charged with having fired the shot, they shall be indicted as an accessory. If a person at common law is to be proceeded against upon the proof that he is an accessory, then the indictment must allege that and he must be indicted as an accessory to an act fired by another.

The Court: Have you made application for a further bill of particulars?

Mr. McGeehan: This is the bill of particulars and it specifically states this: I cannot doubt the statement of the prosecutor contained in it. The State is unable to specify with certainty which of the defendants fired the fatal shot.

The Court: Well, suppose one fired it and they were all involved in a robbery or attempted robbery, what would they be guilty of?

Mr. McGeehan: Of course, as I said a minute ago, I am not—there is no dispute in this law that if the evidence were to show that a number of men were participating in a robbery and one fired the shot, that that would make the crime a murder, fastened upon any man connected with it. These men, if they are thought to be charged with such a thing, each is entitled to know whether he is charged with having committed murder by firing a shot or being an accessory to an alleged robbery on the face of the indictment, because the State having taken the stand that someone fired the shot—of course, it is denied in this case that these defendants did anything in this entire case—but I am using the argument on the face of the indictment that they are entitled to know that.

The Court: Well, I will have to treat this indictment on the face of it and not looking at anything outside of it. It states the crime in the indictment.

Mr. McGeehan: It does, and I am not certain in this, but I think your Honor is bound, on a motion to quash, to take the bill of particulars that may be served, so far as it reveals the allegations of the State, intended, as it is, to explain the indictment and it shows facts which says they must be charged as accessories and they are not so charged in the indictment, the indictment should be quashed.



Mr. Bigelow: Mr. McGeehan differs from all the authorities as to his definition of accessories. I remember counsel tried to convince the Court of Errors that his definition was correct, but the Court did not agree with him. We charge all these defendants that they were aiding and abetting. That makes them principals. None of them are charged as accessories.

The Court: I deny your motion.

Mr. Kavanagh: I make the same motion.

The Court: The same ruling.

Defendants' counsel pray an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

(The defendants plead not guilty to the indictment.)

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ROBERT G. HOFFMAN, sworn on his *voir dire.*

*By Mr. McGeehan.*

Q Mr. Hoffman, you have heard in our previous questions references made to what this case is? A Yes, sir.

Q Have you read this case in the newspapers or discussed it with anyone? A I have.

Q Have you formed any opinion as to the guilt or innocence of these defendants, from having read newspapers or otherwise? A No, sir.

*Drawing of Jury—Robert G. Hoffman.*

Q You feel that if you sit in this case as a juror, and if the Court should charge you that it is your solemn duty, as a juror, to render your verdict only upon the evidence, or lack of evidence in this case, that that is all that would guide you in reaching your verdict? A Yes, sir.

Q You feel, in this case, that if the evidence should show that the defendants, or some of them, had previously been convicted of crime, that that would in nowise prejudice you against them, so as to affect your judgment as a juror as to whether they were guilty or innocent in this particular case?

Mr. Bigelow: I object to that, your Honor.

The Court: I don't think it is a proper question, Mr. McGeehan, at this time.

Q In this case, would proof of the fact that the defendants, or some of them, had previously been convicted of crime, in any way affect your judgment as a juror, so that you would not find them not guilty, even if the evidence did not show them to be guilty?

Mr. Bigelow: I object.

The Court: Sustained.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.



*Drawing of Jury—Fred W. Lyon.*

Q Could you render a fair and impartial verdict in this case? A Why, certainly.

Q Even if those things occurred, could you? A I could.

Q Now, if the Court should charge you that before the defendants, or any of them, can be convicted of the offense that they are charged with, the State must prove their guilt by evidence beyond a reasonable doubt; if the Court should charge that to be the law, and the State should fail to prove them guilty of this offense by evidence beyond a reasonable doubt, would you vote to acquit these men? A Yes, sir.

*By Mr. Bigelow.*

Q You would try the case on the evidence, would you not? A Yes, sir.

Q And be guided by his Honor's rulings? A Yes, sir.

Q Have you any conscientious scruples about capital punishment for murder? A I have not.

Mr. Bigelow: Satisfactory to the State.

(The juror is sworn as number one.)

(One juror having been sworn.)

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FRED W. LYON, sworn on his *voir dire*.

*By Mr. Bigelow.*

Q Mr. Lyon, have you any conscientious scruples as to capital punishment? A What thought I have given to it was against it, but it has never been strong, as far as that is concerned.

Q If the evidence in this case, under the law as laid down by the Court, should convince you that the defendants were guilty, or the defendants were guilty of murder in the first degree, would you be able impartially to consider the evidence and all the circumstances of the case for the purpose of determining whether the punishment should be the death penalty or life imprisonment? A I would hesitate about voting for the death penalty.

The Court: You would hesitate to vote for a conviction involving the death penalty?

Talesman: I would much rather vote for a conviction for life. My tendency would be toward that than toward the death penalty.

The Court: Based upon what?

Talesman: I don't care for the death penalty, and don't think it is a cure for that kind of crime.

The Court: Is it a religious scruple?

Talesman: You might say it is a religious scruple, or it may be conscientious scruples, I don't know just what, but I don't feel it has ever been strong enough for me to go out and make a fight about it. This is the first time that it has come up in my life, and as I think it over, that is the way it appeals to me.

The Court: You put your own convictions above the law and facts in the case, if the law warranted it—

Mr. McGeehan: I object, your Honor.

The Court: I am perfectly cognizant of what I am saying, and you may have an exception.



Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: I want to know would you put your personal feelings or personal opinion above what the law and facts would warrant?

Talesman: If I would vote for the death penalty, in other words? I would.

The Court: If the law and the facts warranted it?

Talesman: I might, if I have to answer yes or no—

The Court: You are the only one to decide that.

Talesman: Well, that is perfectly true, I might do it according to how strong it is, but it would be with the idea, with that conscientious feeling in back of it, that I would rather not vote for the death penalty and the life penalty would be the better way of doing it.

*By Mr. McGeehan.*

Q Mr. Lyon, the law of this State, as expressed by the Legislature, is that whatever a jury finds any man or men guilty of murder in the first degree, it has the right to state by its verdict whether they would recommend, or not, life imprisonment, and if they do that, in such

case, that and no other penalty shall be visited on the defendants. If that is not done, if they do not recommend, then the death penalty is imposed, if the jury find the defendant or defendants guilty of murder in the first degree. Under such a law, do you feel that you, sitting on the jury, could vote guilty or not guilty, as a juror, upon the evidence that you have before you in this case—

The Court: You left one very important fact out of your hypothesis.

Mr. McGeehan: What is that, your Honor?

The Court: The act says, "After considering all of the evidence."

Mr. McGeehan: I did not intend to put that in yet.

The Court: The question is that they have the privilege of voting for the life sentence or capital punishment.

Q After a consideration of all the evidence in the case, even if the jury finds that the defendant has been guilty of the highest form of murder, first degree murder, they have the right to state by their verdict whether they recommend life imprisonment or not—

Talesman: I would recommend life imprisonment.

The Court: Just a minute. The law says, "After considering the evidence."

Mr. McGeehan: I included that in the question.

The Court: But the witness did not understand it.



Mr. McGeehan: All right, I will ask that.

Q The statute in this State, Mr. Lyon, first of all, provides that you, as a juror, are bound to decide guilty or not guilty, first, of the crime charged against the man on the evidence in the case; do you feel that you would vote to acquit him of the crime charged against him if the State did not prove him guilty of it beyond a reasonable doubt. That is the first thing I want to ask you. A Would you mind saying that over, it is a little bit involved to me.

Q Would you, as a juror, sitting in the trial of this case, vote to acquit a man, find him not guilty, if the evidence failed to convince you beyond a reasonable doubt that he was guilty of what he was charged with? A If the evidence failed to convince me, that he was not guilty—

Q That he was guilty? A Failed to convince me that he was guilty, then I would vote that he was not guilty.

Q You would not hesitate to do that? A No, sir.

Q And if the evidence showed him to be guilty beyond a reasonable doubt of the crime charged against him, you would not hesitate to vote that verdict? A I would vote him guilty.

Q Now, in a case such as that, if it should be found upon the evidence, that the defendant or defendants were guilty, would you, upon a consideration of the evidence in the case, vote for life imprisonment rather than for the death penalty? A I certainly would.

Q Would the fact that that question has been asked by me and by the prosecutor in any way

indicate to you that I, as one of the counsel for the defendants, has conceded any shred of guilt on the part of the defendants? Does it have any such effect on your mind as that? A No, sir.

Q You understand that we are not asking these questions from that angle? A Yes.

Q Have you formed any opinion in this case as to the guilt or innocence of the defendants? A I have not.

Q You would not hesitate to acquit if the State does not prove its case, would you, even though the evidence might show these men to have been previously convicted of crime? A Of course, if they had previously been convicted of crime it would kind of bias my opinion, but that alone would not prove them guilty.

Q Now, if the Judge charged you that the law is that a previous conviction of crime must not be considered by the jury from any standpoint except one that is insofar as it might affect the credibility, the believability of the defendant as a witness—if the Court should charge you that, do you feel that if there were evidence of a previous conviction of crime on the part of one or more of the defendants, it would prejudice you against them so as to interfere with your judgment as a juror? A You mean if they are proven habitual criminals?

Q If they are proven to have been convicted of crime previously? A Yes.

Q Would that fact, if the law is and you are told, as a juror that you are to follow the law, the law is that it shall only affect their credibility as witnesses, and whether they have been convicted of crime previously or not, you would not, as a juror, find them guilty of this charge



if the evidence did not show that they were guilty of this charge, would you? A If it is not proven, no.

Mr. McGeehan: Satisfactory.

Mr. Bigelow: Your Honor, I challenge this talesman for cause on the ground that it appears that because of his conscientious or religious scruples he cannot fulfill the duty imposed upon jurymen by the statute in a case of murder in the first degree. The statute contemplates that jurymen shall be in a position impartially, either to vote for the death penalty or to vote to recommend imprisonment at hard labor for life, upon and after a consideration of all the evidence. Your Honor will recall that this statute was amended to put in those words when the Court of Errors or some of the members of it were in doubt as to what the statute meant. The Chancellor thought that a juryman should be guided by the evidence, and Mr. Justice White thought it was permissible that the juror shall be guided by his prejudices or scruples, and the other members of the Court thought that it had nothing to do with the verdict, the recommendation, and immediately after that the legislature amended the statute by putting in this phrase, "Upon and after a consideration of the evidence." It seems to me that the scruples of this gentleman on the stand, his scruples—I think his scruples should be respected—disqualify him as a juror in this case of murder.

Mr. McGeehan: I object to the excusing of this juror upon the ground that the chal-

lenge stated by the prosecutor is not a proper challenge for cause. He does not state any grounds warranting the discharge of this juror for cause—that is, none of the recognized challenges. Furthermore, there is nothing in the testimony given by this gentleman which would in any way indicate that he is disqualified from sitting as a juror in the trial of this case.

The Court: Mr. Juror, what did I understand you to say with reference to your scruples, if the opportunity were offered to render a verdict which carried with it the death penalty or life imprisonment?

Talesman: I would vote most strongly for life imprisonment.

The Court: And you are saying that without hearing any of the evidence?

Talesman: Oh, yes, before knowing anything about it, it is my opinion.

The Court: Is this scruple of yours a religious scruple?

Talesman: I think you can say it is a religious scruple, it is an opinion that I have had for a long time, but it has been more or less sub-conscious, it has not been brought up before me.

The Court: Do you believe that if the facts warranted a penalty of death, your scruples would be overcome, if warranted by the evidence?

Talesman: If I could vote them life imprisonment in preference to the death penalty, I certainly would.

The Court: Irrespective of the evidence?

Talesman: I certainly would.



Mr. Bigelow: I challenge for cause.

Mr. McGeehan: I object.

The Court: The challenge will be sustained.

Counsel for defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

(Three jurors having been sworn.)

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WILLIAM H. BILLINGS, sworn on his *voir dire.*

*By Mr. McGeehan.*

Q Mr. Billings, have you read about this case in the newspapers? A Yes.

Q And from reading articles in the newspapers, I suppose you have read statements made by Captain Brex and other people at headquarters? A Yes.

Q And have you read other articles regarding the alleged defense funds and things of that sort in connection with it?

Mr. Fisch: I object to that. The witness might be asked if he read about Calvin Coolidge.

The Court: I will allow it.

Q Did you read those articles I am speaking of? A I have read the case in general.

Q Did you believe them?

Mr. Fisch: I object to that.

Mr. McGeehan: Withdraw it.

Q From the reading of those articles, whatever they were, did you form any opinion as to the guilt or innocence of these defendants? A I would not say that I did.

Q Did any of those articles prejudice you against the defense in any respect that you read, would you say? A Well, I would not say it did the defense any good or did them any harm.

Q All right. They were not put in to do the defense any good.

The Court: Well, they did the defense no good or harm.

Mr. McGeehan: All right. Their purpose is conceded—

Mr. Fisch: I object to that.

The Court: That is not part of the record. Refrain from such remarks.

Q Now, whatever opinion you may have formed, or whatever effort those articles may have had on you, do you feel that you could exercise your calm and conscious judgment as a juror on the case unaffected by such articles? A I could to a certain point. I am opposed to capital punishment, and up to that point—

Q You are opposed to capital punishment? A Yes.

Q But upon the question of the guilt or innocence of these defendants, which is the thing to be tried out in this trial, would you vote to acquit



them if the State did not prove them guilty? A Well, I would vote according to the evidence.

Q No. I am assuming in that question, suppose we have a trial here, and the State, or the prosecution, that is, the moving party, did not prove that these men did what they are charged with; that is pretty clear, isn't it? A Yes.

Q If they did not prove them guilty, would you hesitate to acquit these men? A I do not think I would.

Q Are you in doubt about it? A I am a little bit.

Q Do you think you might convict these men even though the evidence proved to you that they were innocent? A I do not say that.

Q Do you think you could possibly do that? A I would have to do according to the way the evidence is presented.

Q I am asking you to assume that we have had a trial and that you, as a juror, sitting there find as a fact that the State did not prove them guilty of the murder that they are charged with, and if they did not prove them guilty, would you hesitate at all to say, "We find the defendants not guilty"? A I would deliberate on the evidence that was produced.

Q And if the evidence was produced and you finished your deliberation on it and decided in your mind and conscience that they were not proven guilty, which would you vote for? A I would vote the way the evidence was presented.

The Court: If you were not satisfied that these men were guilty, would you vote to acquit?

Talesman: If I were satisfied that these men were not guilty, I would vote to acquit.

*Drawing of Jury—Wlliam H. Billings.*

*By Mr. Fisch.*

Q You said that you were opposed to capital punishment? A Yes.

Q Well, have you any conscientious scruples? A Yes.

Q And on what are those scruples based, are they religious? A Religious scruples.

Q And would your religious scruples against capital punishment—would they over-shadow your opinion with regard to the punishment in this case if the State proved the defendants guilty beyond a reasonable doubt, if you knew, that as a result of your verdict, the defendants would be put to death? A I think it would, yes.

Q So that your conscientious scruples against capital punishment would over-shadow the law as it would be given by the Court?

Mr. McGeehan: I object to that. The Court could not give him that law. It is not the law.

Q Is that correct? A Yes.

Q And irrespective of the evidence, no matter how guilty the defendants may have been proven by the State, you would not vote for a verdict of guilty of murder in the first degree, if you knew that as a result of that verdict, the death penalty would be imposed?

Mr. McGeehan: I object.

The Court: The question is not being answered. Under the law of this State, murder in the first degree is punishable by death, unless the jury shall so state by their verdict after a consideration of all the evidence that they recommend life imprisonment.



*Drawing of Jury—Wlliam H. Billings.*

Would you, irrespective of the evidence in the case, be guided entirely by your scruples?

Talesman: I think I would.

Mr. Fisch: I challenge for cause.

Mr. McGeehan: May I question him on the challenge for cause?

The Court: Proceed with your questions.

*By Mr. McGeehan.*

Q The law of this State is, as the Court just stated, in its question to you, and if you were to find as to the defendants, or any of them in this case, that they were guilty of murder in the first degree, and on a consideration of all of the evidence, you believed that the jury should recommend life imprisonment, and that you have the right, whatever the evidence was, even if it was sufficient to warrant a first degree conviction, to recommend life imprisonment, would you exercise that right? A I would recommend life imprisonment, but not capital punishment.

Q And the law being what the Court has just stated to you and giving you the right, as a juror, even after finding the defendants guilty of first degree murder, to recommend life imprisonment, it is that right you would take advantage of as a juror, isn't it? A Yes.

Mr. McGeehan: I object to the excusing of this juror.

The Court: No, the juror cannot, in the nature of things, because the law presupposes a consideration of all the evidence, and in response to my question he said irrespective of the evidence he would be guided by his scruples. I grant the challenge.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

(Eight jurors having been sworn.)

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FRANK FARLEY, sworn on his *voir dire*.

*By Mr. Fisch.*

Q Have you any conscientious scruples against capital punishment? A I have.

Q Are those scruples founded on religious belief? A Yes, sir.

Q And those conscientious scruples, founded on religious belief, against capital punishment, in your judgment, would they prevent you from exercising your duty as a juror in a murder case?

Mr. McGeehan: I object to the question. I don't think he should be told what his duty is, what the law is upon the subject.

Talesman: I don't think that would be sufficient to bias me or not, but I should hate to be put to the test.

Q Well, if the law of the State of New Jersey is that if a man is proven guilty of murder in the first degree, that he shall be put to death unless the jury, on the evidence, recommends



that he be confined to life imprisonment at hard labor—now, under those circumstances, and if the State can prove in this case, beyond a reasonable doubt, that the defendants were guilty of murder in the first degree, would your conscientious scruples against capital punishment in any way interfere with your rendering a proper verdict in this case? A Yes, they would.

The Court: Do you mean that you would not act impartially?

Talesman: I feel not, your Honor.

The Court: I will excuse this gentleman.

Mr. McGeehan: May I examine him? Is he challenged for cause? I don't think the prosecutor challenged him yet.

Mr. Fisch: Of course, I challenge him for cause.

The Court: Do you want to ask him a question?

Mr. McGeehan: I do, yes.

*By Mr. McGeehan.*

Q If the law of this State, Mr. Farley, is that the jury in any murder case, after a consideration of all the evidence, shall recommend life imprisonment, and that that and no greater punishment shall be visited upon a defendant, do you feel that after you considered all of the evidence and believed a defendant guilty, first of all, not on the question of a recommendation, but on the question of your verdict, if after all the evidence was in, you believed the State had proven beyond a reasonable doubt that the defendants were guilty, would you vote to convict? A Yes, sir.

Q If, after a consideration of all the evidence in the case you found, as a fact, that the State had not proven the defendant guilty of the crime charged beyond a reasonable doubt, you would vote to acquit him? A Yes, sir.

Q Would you reach your verdict without a consideration of all of the evidence in the case, in reaching a verdict, you would consider all of the evidence in the case, would you not? A Yes, sir.

Q Now, if after such consideration of all of the evidence in the case you believed the defendant guilty of murder in the first degree, would you convict him, and if you did not believe him guilty you would acquit him, would you not? A Yes, if I understand you rightly.

Q If the law gives you the right, upon such consideration of all the evidence, even where you found that it shows guilty of murder in the first degree, if the law gives you the right, and jury the right—not using the words, "on the evidence," as the prosecutor does, but "after a consideration of all of the evidence," to recommend life imprisonment, would you be inclined to exercise that right? A Absolutely.

Q And if you have that right under the law of this State, do you feel that you could conscientiously and impartially act in this case and act according to the law? A If it were possible for me to vote in that manner, do you mean?

Q Yes, knowing that it is possible for you to do all that, which I embodied in my questions, do you feel that you could now conscientiously serve on this jury and render an impartial verdict? A If it did not entail capital punishment, yes, sir.

Q Well, if you were given the right alone, and nobody else, to determine, after a consideration of all the evidence, whether it should be capital punishment or life imprisonment, and had the right to recommend life imprisonment, you could conscientiously do that? A Yes, sir.



Mr. McGeehan: I object to the discharge of this juror for cause, or in any manner, except by a peremptory challenge of the State.

The Court: The prospective juror told me that he would not, irrespective of the evidence, vote for capital punishment. Did I so understand you?

Talesman: I did not get your question.

The Court: First let us consider the evidence with relation to the guilt. You told counsel that if you felt the defendant were guilty beyond a reasonable doubt, you would vote to convict?

Talesman: Yes, sir.

The Court: And if they were not guilty, you would vote to acquit?

Talesman: Yes, sir.

The Court: But you say you have religious scruples upon which you base your conscientious scruples against capital punishment?

Talesman: Yes, sir.

The Court: Now, I pointed out, under the law, the jury, upon a consideration of all the evidence, can elect to recommend life imprisonment or bring in a verdict without recommendation, and in that event, the death sentence would be imposed. I asked you before whether or not, irrespective of the evidence in the case, you would bring in a

verdict of guilty which would carry with it the sentence of death.

Talesman: No, sir.

Mr. McGeehan: And you would vote for a recommendation after a consideration of the evidence, but no matter what the evidence might be, you would recommend life imprisonment, is that right, if you found the defendants guilty?

Talesman: Yes, I believe I understand your question; yes, if it were possible to vote, knowing that my vote would carry with it life imprisonment, I would so vote them guilty, if that is what you mean.

Mr. McGeehan: I object to the dismissal of this juror.

The Court: Overruled. I sustain the challenge for cause.

Mr. McGeehan: I ask an exception, and ask that the record show that this juror is satisfactory to us.

Counsel for defendants Joseph Juliano alias Big Joe, Louis Capozzi and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

Recess until tomorrow, Tuesday, November 16, 1926, at 10:00 A. M.



SECOND DAY.

Tuesday, November 16, 1926.

Appearances as before stated.

Trial continued.

(Ten jurors having been sworn.)

CHARLES S. WEISS, sworn on his *voir dire.*

*By Mr. McGeehan.*

Q Have you read about this case in the newspapers? A Not recently.

Q But some time ago? A When the case was reported.

Q That is what? A When the hold-up or murder was reported; that is the only time I read of it.

Q When the hold-up or murder occurred? A Yes.

Q Did you read about the subsequent arrest three or four weeks ago of these defendants charged with that crime which is alleged to have occurred in July, 1926? A I did not. I was out of town.

Q Well, anything that you have read—well, you read nothing after the time of the happening of the event? A I did not.

Q Now, have you formed an opinion, either way, from anything you have read, or any other cricumstances, as to the guilt or innocence of these men? A I have not.

Q Do you feel you could render a just verdict in this case based upon the evidence only and nothing outside of the evidence, as charged by the Court? A A just verdict as to guilty or not guilty.

Q Now, when you say a just verdict as to guilty or not guilty, have you any kind of scruples with respect to capital punishment? A Yes.

Q You have such scruples? A Yes.

Q Well, suppose in this case, where the charge is murder, and the law says that the jury, if it should convict the defendants of murder in the first degree, the jury upon a consideration of all of the evidence, should recommend to the Court that the punishment be life imprisonment, then that and no greater punishment would be inflicted, whereas, if the jury did not so recommend the death penalty would be inflicted or imposed, suppose that is the law, and given to every juror in every murder case, and applying only where they have convicted men of first degree murder, suppose that is the law given to you as a juror, that right of determining that, the life or death of a man after you have convicted him, could you conscientiously sit under those circumstances? A I could sit, but I would not be a party of recommending a verdict of guilty to first degree murder with the death penalty.

Q Now, you would vote to acquit if the State did not prove beyond a reasonable doubt, every reasonable? A If there were no accessories to the fact, I would vote to acquit them.

Q If they are not proven guilty under the Court's charge of the law, you would acquit? A Yes.

Q And if they were proven guilty beyond a reasonable doubt you would vote to convict? A Yes, I would vote to convict.

Q And if you voted to convict, in this or any murder case, if you had the right to say—to recommend life imprisonment with the other



members of the jury, after a consideration of all of the evidence, would that permit you to sit conscientiously in this case? A Yes.

Q Would you be influenced in your reason, in your deliberations by proof, that these defendants, or some of them, had previously been convicted of a crime? A No, I would not.

*By Mr. Fisch.*

Q But under no circumstances, as I understand you, irrespective of the evidence, would you be a party to rendering a verdict of guilty of murder in the first degree? A Exactly.

Q Where the penalty was death? A Exactly.

Q Is that right? A Yes, that is right.

Q And that is because of your conscientious scruples against capital punishment? A Exactly.

Mr. Fisch: I challenge for cause.

Mr. McGeehan: I object to the excusing of the juror for cause.

The Court: Sustain the challenge.

Counsel for the defendants Joseph Juliano alias Big Joe, Louis Capozzi and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

(Ten jurors having been sworn.)

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*Drawing of Jury—Herbert A. Gries.*

HERBERT A. GRIES, sworn on his *voir dire*.

*By Mr. McGeehan.*

Q You have read about this case? A Yes.

Q Have you formed any opinion, one way or the other, as to the guilt or innocence of these men? A No, sir, from the reading, but I have discussed it with a certain party, who I understand is a witness in the case. That is about five or six weeks ago.

Q So that you have talked about the case? A Yes. He was a member of our building and loan and he came there late and he explained that he had been down to Police Headquarters and he had been looking over some parties they got as suspects in this case.

Q Who was that man? A Mr. Pierson.

Q And from your talk with him, did you form any opinion as to the guilt or innocence of these persons? A Well, I did not form any opinion, because there was no particular people who was caught. There was no names mentioned. He just described what had happened. He said he had been down at Police Headquarters, and described what he had seen down there.

Q Well, what did Mr. Pierson say to you?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Did anything that he said to you refer to the defendants in this case or to the men, without knowing the names, that he went down upon? A Well, from what I understand, it was shortly after the hold-up in Elizabeth, and there was some men caught shortly after that and he was called down to Police Headquarters to see if any could be identified with the Reid case.



*Drawing of Jury—Herbert A. Gries.*

Q You do not even know whether it was these same men? A I do not know anything about that.

Q So, you mind is not prejudiced in any respect by that? A No.

Q You have no opinion or prejudice in the case one way or the other? A No.

Q Now, if the evidence in this case should show that the defendants, or some of them, had been convicted of crime, would that influence you as a juror one way or the other in determining whether they committed this crime or not? A No.

*By Mr. Fisch.*

Q Have you any conscientious scruples against capital punishment? A Not if the evidence is conclusive enough.

Q Well, you would not require any greater evidence in a murder case than you would in any other case? A Yes, I would.

Q Suppose the Court were to tell you that it is the duty of the State to prove the defendants guilty beyond a reasonable doubt? A Yes.

Q Would you require the State to go any further than that? A Well, I do not know. That would all depend as to the evidence. That would be in my own mind to determine.

Q Yes. Suppose the Court were to define a reasonable doubt to you? A Yes.

Q Would you follow the definition as laid down by the Court? A In the conviction of first degree murder?

Q Yes. A No, sir, not as to capital—I mean I would not bring in a verdict of murder in the first degree, that is, the death penalty.

*Drawing of Jury—Herbert A. Gries.*

The Court: Under any condition?

Talesman: I am not in favor of the death penalty.

The Court: Then, irrespective of any evidence—

Talesman: I would vote for life imprisonment.

The Court: Then, irrespective of any evidence—

Talesman: Well, I do not think I would vote for the conviction of a man to be electrocuted.

Mr. Fisch: I challenge for cause.

Mr. McGeehan: I object.

The Court: Sustain the challenge.

*By Mr. McGeehan.*

Q If the law gives you the right, after consideration of all of the evidence, even if you find the defendants guilty of first degree murder, even to recommend life imprisonment, would you do that? A In preference—

Q To the chair? A Yes.

Q Even if you find them guilty of first degree murder? A Yes.

Q Now, you would do that after considering all of the evidence? A Yes.

Mr. McGeehan: I submit this man is within the meaning of the statute.

The Court: My ruling as made stands.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.



*Drawing of Jury—John F. Moore.*

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

(Ten jurors having been sworn.)

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JOHN F. MOORE, sworn on his *voir dire*.

*By Mr. McGeehan.*

Q Mr. Moore, did you read the article in this morning's Ledger, quoting Captain Brex? A No, sir.

Q Have you read any articles in connection with the arrest of these men? A Not recently.

Q Do you remember whether you read any at the time they were arrested about three or four weeks ago? A Yes, sir.

Q Do they have any effect on your mind at this time, or now, as to creating an opinion one way or another as to whether these men did what they are charged with or not? A No, sir.

Q You feel that you could still try this case and render a verdict from the sworn evidence before you? A Yes, sir.

Q Now, if the evidence should show that these defendants, or some of them, had previously been convicted of crime, would that prejudice you against them? A No, sir.

Q You are not acquainted with the prosecutor or assistant prosecutor? A I never saw them before.

*By Mr. Fisch.*

Q Have you any conscientious scruples against capital punishment? A To a certain extent.

*Drawing of Jury—John F. Moore.*

Q Well, to what extent? A Well, I don't believe in taking a life.

Q You don't believe in capital punishment? A No, sir.

Q And that belief, in being opposed to capital punishment, is that founded on some religious principles? A No, sir.

Q It is just your conscience, is that right? A Yes, sir.

Q And from the attitude which you take with regard to capital punishment, do I take it then, that under no circumstances, irrespective of the evidence, would you be a party to a verdict of guilty of murder in the first degree, where the death penalty was to be imposed, is that right? A Yes, sir.

Q Irrespective of what the evidence might be, you would not vote for a verdict of guilty of murder in the first degree if the defendants were to be put to death? A Yes, sir.

Mr. Fisch: I challenge for cause, if the Court please.

Mr. McGeehan: I object.

The Court: Sustained.

Mr. McGeehan: May I question before your Honor rules?

The Court: This witness has indicated that irrespective of the evidence in the case, he would not vote for a verdict of guilty of first degree—

Mr. McGeehan: But, I am entitled to ask a question.

The Court: Proceed.



*Drawing of Jury—John F. Moore.*

*By Mr. McGeehan.*

Q You were asked if you would not convict of murder in the first degree in any circumstances if the death penalty were to be imposed, and you said no, but you would vote to convict of murder in the first degree if it was up to the jury, upon a consideration of all the evidence,to recommend life imprisonment or make no recommendation? A I think it would be life imprisonment—

Q You would vote for a conviction in such an event if you knew under the law you could do that, if the evidence proved them guilty of it? A I might.

Q Well, if the evidence proved them guilty of it beyond a reasonable doubt, would you, if you knew that you could recommend life imprisonment? A Yes, sir.

Mr. Fisch: I challenge.

The Court: The same ruling.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

Recess until 2 o'clock.

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AFTER RECESS.

(Ten jurors having been sworn.)

JOHN CHRISTIANSEN, sworn on his *voir dire.*

*By Mr. Fisch.*

Q Mr. Christiansen, have you any conscientious scruples against capital punishment? A No, sir.

Q Would you, in a proper case, if the evidence warranted it, and under the charge of the Court, have any hesitancy of rendering a verdict of guilty of murder in the first degree? A Yes.

Q You would hesitate? A In what way do you mean?

Q I asked you if you would, in a proper case, where the facts warranted it and under the charge of the Court, have any hesitancy, would you hesitate in any way, in rendering a verdict of guilty of murder in the first degree? A I would.

The Court: What do you mean, you would not render a verdict?

Talesman: I would not render a verdict if I wasn't positive.

The Court: That is not the question.

Q The question which I asked you, Mr. Christiansen— A I did not quite understand your question.

Q The question which I asked you was this: In a proper case, where the facts warranted it, and under the charge of the Court, would you





hesitate to render a verdict of guilty of murder in the first degree? A Yes, I would.

Q You would hesitate? A Yes, sir.

Q Even though the facts warranted it? A Well, I must be positively sure, I would hesitate on that.

Q If the State proved to you, beyond a reasonable doubt, that the defendants were guilty of murder in the first degree and the Court told you that the law of the State was that that was all that the prosecution was required to do, would be, to prove the defendants guilty beyond a reasonable doubt, you would still hesitate? A No, sir.

Q You would then vote for a verdict of guilty of murder in the first degree? A Yes, sir.

Q Well, how do you reconcile that with your previous answer, Mr. Christiansen? A I cannot say, I don't know what to say.

Q What do you mean by that, you don't know what to say?

The Court: Probably the juror is confused.

Q Now, if the State proved its case against the defendants in this case beyond a reasonable doubt, proved that the defendants were guilty of murder in the first degree, would you vote for a verdict of guilty of murder in the first degree? A I would.

Q Irrespective of the consequences of that verdict? That is to say, it would not make any difference to you whether the defendants were to be put to death, as a result of that verdict, or whether they would be sentenced to life im-

prisonment? A Well, I am not really in favor of capital punishment.

Q You say you are not in favor of capital punishment, you don't believe in it, is that what you mean? A I don't believe in it.

Q And with your disbelief in capital punishment, would that have any effect upon your decision in a case of murder? A Well, I would not want to send any man to the chair.

Q Do I understand your responses to my questions to mean that under no circumstances, irrespective of the evidence in the case, would you want to be a party to a verdict of guilty of murder in the first degree which would result in the death penalty being imposed? A You mean to vote in favor of a verdict or against it?

Q In favor? A No, I would not vote in favor of it.

Q You would not vote in favor of it where the penalty was death? A Not for capital punishment.

Q Irrespective of the evidence? A Yes, sir.

Mr. Fisch: I challenge for cause, if the Court please.

Mr. McGeehan: I object, and ask leave to question him.

*By Mr. McGeehan.*

Q Your first duty was to decide whether the defendants were guilty or not guilty, you would go that far? A Yes, sir.

Q And if you knew that under the law, even if you found on the evidence that the defendants were guilty beyond a reasonable doubt of first degree murder, and that you had a right,



under the law of this State, after a consideration of all of the evidence, to recommend life imprisonment, could you then vote for the proper verdict, either of not guilty or guilty, could you do that? A I don't quite understand your question.

Q All right, I will change it. It is rather lengthy. If the law of the State says that if a person even if he is convicted by the jury of first degree murder, the jury does not have to send him to the chair, but they can recommend life imprisonment, which is binding on the Court, after a consideration of all of the evidence. If you knew you had the right to do that, after a consideration of the evidence, and if you were the sole judge of the effect of that evidence, could you then conscientiously sit. In other words, if you knew that if you did convict, you would not have to send that man to the chair, but you had a right to vote for a recommendation, would you be able to sit conscientiously under those conditions? A I really don't know what to say about this. I do not quite understand your question, really.

Q Under the law of the State, your first duty as a juror would be to listen to all of the evidence and listen to the charge of his Honor as to the law, then you would have to decide whether the State has proved its case beyond a reasonable doubt or not, and if it did prove it, it would be your duty to find the defendants guilty; and if it didn't prove it, if you had a reasonable doubt in your mind, it would be your duty to find them not guilty. Now, do you think in that way you could exercise your duty? A If they were guilty, I would say so.

*Drawing of Jury—John Christiansen.*

Q And if they were not guilty, you would say so? A Yes, sir.

Q And if you knew that the State had proven the case beyond a reasonable doubt against the defendants, and if you knew you had the right, even if they were guilty of murder in the first degree, if you knew that you had the right, on a consideration of all of the evidence, to say as a jury, "We recommend the defendant be given—or the defendants be given—life imprisonment," and you knew you could say that and thereby prevent the defendants going to their death by execution, you feel able to sit properly— A Yes, sir.

Q And you would vote under such circumstances for a first degree conviction, if the State proved its case beyond a reasonable doubt? A For first degree?

Q First degree does not carry the death penalty unless the jury fails to recommend life imprisonment. Do you understand now? Could you then vote for first degree, if you found them guilty beyond a reasonable doubt? A I think so, yes, sir.

Q And you would vote for an acquittal if the State does not prove their case beyond a reasonable doubt? A If the State did not prove them guilty?

Q Of what the State says they did beyond a reasonable doubt, would you acquit them? A If the State did not acquit them?

Q If the State did not prove its case against them would you acquit them? A Yes, sir.

Q If you convict, you would consider the evidence and then vote for a recommendation for life imprisonment, if you found them guilty? A Yes, sir.



*Drawing of Jury—Edgar C. Desch.*

Mr. McGeehan: I object to the challenge.

The Court: I sustain it.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

(Ten jurors having been sworn.)

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EDGAR C. DESCH, sworn on his *voir dire*.

*By Mr. McGeehan.*

Q Have you read anything about this case in the newspapers? A Not in the past two or three months.

Q Now since the arrest, or at the time these men were arrested, charged with this crime? A Nothing since then.

Q Did you read that at that time? A Yes, sir.

Q Well, that was three or four weeks ago? A It was quite a while ago, I don't remember the date.

Q Did you see their pictures in the newspaper? A I cannot recall.

Q You think you did read it? A Yes, sir.

Q And has the reading of it made any impression on your mind, one way or the other, as to whether they committed the crime they are charged with? A No, I have formed no impression.

Q You feel in this case that you could try the case on the evidence and render a verdict on that entirely, and pursuant to the charge of the Court as to the law, without being influenced by anything you might have read? A Yes, sir.

Q Suppose the evidence in this case should show, as it can be shown, for the purpose of affecting the credibility of the defendant as a witness, that some of these defendants or all of these defendants have been previously convicted of a crime, would that prejudice you against them, do you think? A No.

Q It would make you more inclined to vote against them even if they were men who had previously been convicted of crime? A I don't think so, unless it has anything to do with this case.

*By Mr. Fisch.*

Q Have you any conscientious scruples against capital punishment? A In this way, that it has not done what it has purported to do, that is to say it has not stopped crime, so therefore I don't believe in it.

Q You don't believe in capital punishment? A No, sir.

Q And your disbelief in capital punishment is the result of your opinion that it is not a deterrent to crime, is that it? A Yes, sir.

Q And your disbelief in capital punishment, would that affect your consideration of a first degree murder case? A No, sir.

Q You say that you do not believe in capital punishment? A Yes, sir.

Q If the evidence showed beyond a reasonable doubt that the defendants were guilty of



murder in the first degree, would you, irrespective of the evidence, refuse to find them guilty of murder in the first degree, if you know, as a result of that verdict, that they would be put to death?

Mr. McGeehan: I object to that, that is not the law.

The Court: The question may be answered.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A If there were no alternative I would have to vote for it, but if there was an alternative, I would accept the alternative.

Q Now, the law is that the jury may, after a consideration of all of the evidence, in a first degree case of murder, recommend the defendants to life imprisonment. Knowing that to be the law, would you, under any circumstances, irrespective of the evidence, vote to convict the defendants of murder in the first degree without recommending them to life imprisonment? A Of course, I cannot go irrespective of the evidence. I would go on the weight of the evidence and if I found them guilty it would be life imprisonment, as far as I am concerned.

Q First of all you would arrive at your verdict of guilty or not guilty upon the weight of the evidence, upon the evidence, and once you

*Drawing of Jury—Edgar C. Desch.*

did determine from the evidence their guilt, then, irrespective of the evidence, you would recommend them to life imprisonment? A Yes, sir.

Q Would you, under no circumstances, vote for a capital conviction? A The only circumstance would be that there was no alternative, as I said before, and if there was, I would accept the alternative.

Q Where there is an alternative for recommending them to life imprisonment, you would accept the alternative, irrespective of the evidence? A Yes, sir.

Mr. Fisch: I challenge for cause.

Mr. McGeehan: I object.

*By Mr. McGeehan.*

Q By "irrespective of the evidence," just what do you mean? Would you consider the evidence in your deliberation of the case? A Absolutely.

Q And you would make that recommendation after a consideration of the evidence? A Yes, I would.

Q And you are now asked to give an opinion as to what you would do in the future, and your judgment is that you would recommend life imprisonment, is that right?

Mr. Fisch: I object to that.

Mr. McGeehan: I think it is giving a perfect exemplification.

The Court: Without any further argument, your right is one of rejection and not of selection. I sustain the challenge.



*Drawing of Jury—Harry H. Gimbel.*

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

(Ten jurors having been sworn.)

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HARRY H. GIMBEL, sworn on his *voir dire*.

*By Mr. Fisch.*

Q Mr. Gimbel, have you any conscientious scruples against capital punishment? A I don't believe in it.

Q You don't believe in capital punishment? A No, sir.

Q You don't believe in it because you don't think it is a good thing? A Well, I fail to see where it does any good.

Q And that is why you don't believe in it? A That is one reason.

Q And does your disbelief in capital punishment put you in the frame of mind where you would not want to be a party to a capital conviction? A Yes, sir.

Q So, that if you were empaneled on a jury in a murder case, and even though you were satisfied from the evidence beyond a reasonable doubt that the defendants were guilty, you would not vote for a verdict of guilty of murder in the first degree, if you knew that as a result of that verdict the defendants were going to be put to death? A No, I don't think I would.

*Drawing of Jury—George R. Jordan.*

Q Irrespective of the evidence, you would not vote for a verdict of guilty of murder in the first degree if the defendants were to be put to death? A No, sir.

Mr. Fisch: I challenge for cause.

Mr. McGeehan: I object to that upon the ground—your Honor has said that the right is one of rejection and not of selection, and I object to the challenge for cause because I feel that the State should challenge peremptorily, instead of having the Court discharge the juror.

The Court: The law provides, "after a consideration of all of the evidence." This man has said that irrespective of the evidence, he would not vote for first degree murder—I will sustain the challenge.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

(Ten jurors having been sworn.)

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GEORGE R. JORDAN, sworn on his *voir dire*.

*By Mr. Fisch.*

Q Have you any conscientious scruples against capital punishment? A I have, yes, very much so.



*Drawing of Jury—George R. Jordan.*

Q What are those conscientious scruples based on? A Why, I do not believe that capital punishment is a deterrent to crime.

Q Are those conscientious scruples based on a religious belief? A No; in fact, I have—

Q How long have you entertained these conscientious scruples against capital punishment? A At least twenty-five years.

Q You have heard the last three preceding jurors who were examined here? A I have.

Q Did their answers have any effect upon your belief or disbelief against capital punishment?

Mr. McGeehan: I object to that question.

The Court: Allowed.

A No.

Q And are your beliefs against capital punishment so strong that irrespective of the evidence in a certain case, you would refuse to be a party to a verdict of first degree, irrespective of what the evidence may be?

Mr. McGeehan: I object.

The Court: I will allow it.

A I would not vote for any verdict to put anybody out of the way.

Q Under no circumstances? A No.

Q Irrespective of what the evidence might be? A Yes.

Mr. Fisch: I challenge.

Mr. McGeehan: I object.

The Court: Sustained.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

(Ten jurors having been sworn.)

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HENRY M. BECKMAN, sworn on his *voir dire*.

*By Mr. Bigelow.*

Q Are you of the same opinion as the gentleman who preceded you as to capital punishment? A I could not hear him very well. I heard some questions.

Q Have you scruples about capital punishment? A I have.

The Court: What are the scruples?

Talesman: Why, that it does not accomplish the purpose for which it was started.

The Court: What was the purpose?

Talesman: Well, my idea of it is to be able to curb crime.

The Court: If you took your oath as a juror would you subordinate the law in a proper case with your personal opinion?

Talesman: I do not quite understand the question.

The Court: The law says that in a proper case, assuming a man is convicted of murder in the first degree, after considering all of



the evidence, the jury may elect to recommend life imprisonment. Upon such recommendation the Court can impose no greater sentence. In the absence of such recommendation, the Court would impose the death penalty. I ask you, irrespective of the evidence that might or might not warrant the death penalty, would you subordinate your opinion based on the evidene, to your own private opinion that you have?

Juror: Yes.

The Court: You are excused.

Counsel for the defendants Joseph Juliano, alias Big Joe, Louis Capozzi and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

Adjourned until Wednesday, November 17, 1926, at ten o'clock A. M.

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THIRD DAY.

Wednesday, November 17, 1926.

Appearances as before stated.

Trial continued.

Mr. Bigelow opens to the jury in behalf of the State.

JOHN J. BRACKEN, sworn in behalf of State.

*Direct examination* by Mr. Bigelow.

Q You are a civil engineer and surveyor? A Yes.

Q Practicing here in the City of Newark? A Yes.

Q Did you make the two maps that are on the board there? A Yes.

Q From surveys? A Yes.

Q Now, looking at the top map, will you tell the jury when you made that map? A That map was made October 28th, 29th and 30th.

Q What is the scale of it? A One inch on the map equals ten feet on the ground.

Q The lower map, when was that made? A That was made at the same time.

Q And what is the scale there? A The scale is the same, one inch on the map equals ten feet on the ground.

Q Now, the top map represents what? A It represents Clay street to Broad street to Ogden street.

Q Clay street in Newark? A Yes, and Mt. Pleasant avenue going a little bit beyond the Reid plant, and this is Mt. Pleasant avenue going several hundred feet beyond it.



Q And do those two maps correctly represent what they are supposed to show? A The conditions on the ground there as I made the survey.

(Maps offered in evidence and marked Ex. S1 and S2.)

Q Will you look at this third map? A Yes.

Q Did you also make that? A Yes.

Q At the same time? A Yes.

Q And what is the scale of this third map? A The scale of the third map is the same, one inch on the map equals ten feet on the ground.

Q Where is that located? A That represents Third avenue from Broad street to Belleville avenue, showing the Masonic Temple on the one side and an apartment house on the other.

Q That is also here in Newark? A Yes.

Q And does it also show— A The conditions as shown, yes.

(Map offered in evidence and marked Ex. S3.)

Q Now, calling your attention to Exhibit S2, the lower map, and S1, the upper map, I see Mt. Pleasant avenue and Clay street appear upon both of them. In order to make the maps coincide should the lower map be turned up on one end? A Why, looking at Mt. Pleasant avenue, if you want them to coincide, you would have to raise that map to fit in at Clay street.

Q As I understand it, the right-hand of that lower map would be raised and the map stood on end? A Yes, an extension of Mt. Pleasant avenue. That was put on for convenience, in order that you might place them, the maps be-

ing so large it would be almost impossible to place it there.

Q Is this yellow block on the east side of Mt. Pleasant avenue, on Exhibit S1, a part of the same yellow block which appears on the east side of Mt. Pleasant avenue on Exhibit S2 and the red block which appears on the west of Mt. Pleasant avenue on Exhibit S1, is that a part of the red block that appears on the west side of Mt. Pleasant avenue on Exhibit S2? A Yes.

Q What does the red signify on those maps? A The red signifies brick buildings.

Q And the yellow? A Those are frame.

Q What is the blue? A The blue is a concrete or cement building; stucco, perhaps.

Q I notice on Mt. Pleasant avenue, on the east side on both of these maps two little circles connected by a mark. What does that sign signify? A They show telegraph or electric light poles. Those round marks are electric light and trolley poles.

Q These other round marks? A Are all electric lights and trolley poles, yes.

Q What does the line on each side of the street, on these maps signify? A That is the curb line.

Q And what does the line on the west of Mt. Pleasant avenue and running diagonally over toward Clay street signify? A Well, as you come along there that is billboards and fences, and that is the rear fence of the gas station that is on the corner of Clay street and Mt. Pleasant avenue.

Q What is the width of Mt. Pleasant avenue between the curb? A Mt. Pleasant avenue is 30 feet between the curb. I will check it. Yes, thirty feet.



Q That would be three inches on the map? A Three inches on the map.

Q And what is Clay street opposite the westerly side of Mt. Pleasant avenue? A Clay street is fifty feet there between curbs, 5 inches.

Q Are there any driveways shown on that map? A There is a driveway going into the Reid plant on Mt. Pleasant avenue and coming out of Carlysle Place.

Q Now, what is the relation on the ground between S3 and S2? A Well, you have got to go up Belleville avenue or Broad street until you reach Third avenue.

Q Third avenue is further north than Clay street? A Yes.

Q And Belleville avenue is west of Broad street? A Yes. It continues on up and that runs between them.

Q And the red, I take it on S3 means the same as it does on the other maps? A They are both brick buildings, yes.

Q What is the width of the space, Mr. Bracken, between this point and this point on S1 (indicating)?

**The Court:** Is that the driveway, Mr. Bigelow?

Mr. Bigelow: It does not appear what it is on the map.

The Witness: It is a driveway going from one street to the other, the wagons go in this way or that way (indicating). It is about 33 feet.

Q Will you mark "33" there, please?

(Witness marks as requested.)

*John J. Bracken, cross.*

*Cross examination* by Mr. McGeehan.

Q Mr. Bracken, if I remember correctly, from looking at the locality yesterday, is there some sort of a lack of curb line along Mt. Pleasant avenue in the vicinity of the Reid plant? A That is lowered down for crossing over, they usually lower the curb, Mr. McGeehan, for wagons to cross over.

Q Have you any notation in your notes as to how far that extends along there? A No, sir, but it is lowered wherever there are driveways for backing in.

Q What I am particularly asking about is there some building there which I think is the office and which has a porch on it, and I guess this is it (indicating on the map). A Yes, sir.

Q Now, in front of that entire building is there a lack of curb? A Well, the curb is lowered. I won't say in front of the entire building, but I think it probably is, because the wagons at one time backed in here.

Q But you did not make note of that? A I did not make a notation of it. The curb is there, but it is lower than the other curb.

Q How much lower, about? A About an inch.

Q The line, then, is the edge of the sidewalk, or whatever exists east of the street? A Yes, sir.

Q Now, you mentioned 3rd avenue as being the street shown on Exhibit S3. A The small map, yes, sir.

Q And you said that is north of the locality shown on S. 1? A Yes, sir.

Q How far north, approximately, is it, Mr. Bracken? A I cannot tell you that without going to the atlas.



*John J. Bracken, cross.*

Q How many blocks? A It is several blocks, Mr. McGeehan, I can't tell you right off-hand, I would have to look at the maps or atlas.

Q Would it be long or short blocks? A Well, it is a long block. That is a very long block, Mt. Pleasant avenue, it is perhaps 700 or 800 feet long.

Q Now, in making the survey, did you measure the height of the buildings shown on the various exhibits? A No, sir, I did not measure the height.

*Cross examination* by Mr. Kavanagh.

Q Mr. Bracken, on what side of Mt. Pleasant avenue is the Reid Ice Cream works? A I would say it is on the east side of Mt. Pleasant avenue.

Q Are you sure it is on the east side? A Yes, sir.

Q Why do you say that? A I know, because I know it is on the east side, there is your direction of north and south.

Q Are there any buildings on the west side of the street connected with the Reid Ice Cream Company works? A Yes, sir.

Q Do you know what those buildings are? A Why, I noted that they were garages or a storehouse where they keep their automobiles and things of that sort.

Q On what side of Mt. Pleasant avenue is the factory? A Why, the plant is evidently on the east side.

Q Are you sure of that? A There is where they manufacture the cream and put it in cans. I did not go into the building. The offices are there, I noticed, but I did not go into the building; and they deliver the ice cream from it, I

noticed, on these stands that you see along there, the platforms.

Q On what side of Mt. Pleasant avenue is the office on? A The east side.

Q Can you tell me what buildings there are on the west side that are connected with the Reid Ice Cream Company or works? A Well, if you can rise to see it, on Mt. Pleasant avenue those two long red brick buildings here on the map.

Q I don't mean the kind of buildings as to being wooden or brick, I mean, what are they used for in connection with the Reid Ice Cream works?

The Court: I do not see the materiality of use of the buildings. He is the man who made the survey, he described the positions.

Mr. Kavanagh: It may become very material later on in this trial.

The Court: Well, prove it by a competent witness.

Mr. Kavanagh: Well, I understand that Mr. Bracken is a civil engineer and surveyor. He made this outline, these maps.

The Court: He told you he did not go into the buildings. He is not called upon to describe the contents of the building, or what a building is used for.

Q Did you go into the building? A No, sir.

Q Did you enter any of the buildings either on the west side of Mt. Pleasant avenue or the east side of Mt. Pleasant avenue? A No, sir, I did not.

Q Then, you don't know, as a matter of fact, do you, Mr. Bracken, what the buildings on the



east side of Mt. Pleasant avenue and what buildings on the west side of Mt. Pleasant avenue connected with the Reid Ice Cream works are used for? A Why, from observation and seeing them from the outside, and watching the men on the inside working, I can say that the east side is the office and the manufacturing plant, the doors were opened—

Q On what side of Mt. Pleasant avenue is the office? A The east side.

Q How do you know that if you did not go into the building? A I saw desks and people working around them.

Q Well, you did not enter any of the buildings, you said a moment ago.

The Court: Just a moment, we won't argue, and you have gone far enough in that line of examination. This man has testified as to the locality of the buildings, he doesn't know anything about the operation of that plant.

Mr. Kavanagh: I submit, your Honor, this witness has said he knows where the offices of the Reid Ice Cream Company are.

The Court: He said, so far as his observation goes, he knows. Now, you cannot go on all day with this line of questioning.

Mr. Kavanagh: I ask an exception to your Honor's refusing to permit me to further examine this witness.

The Court: You may have an exception to my ruling.

Counsel for defendant Nicholas Jos. Juliano prays an exception to this ruling of the Court.

Exception allowed; let it sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

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JOHN L. DAY, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Mr. Day, you are a member of the Police Department of the City of Newark? A I am.

Q And are the official photographer of the Department? A Yes, sir.

Q Will you please glance at these photographs, there are seven or eight of them, and see if you took them or not, and if you did take them, tell me when you took them? A I took them all. Some of them I made on July 19, 1926. The others were made on October 28, 1926.

Q Will you pick out those that you made July 19th? A There are three.

Q I show you a photograph, one of the three you just handed me, showing a building on the left side of the street with a sign Reid Ice Cream. What does that photograph show? A This is a photograph looking south on Mt. Pleasant avenue from the front of 315.

Q That is the camera was in front of 315? A Yes.

(Photograph marked Ex. S. 4 for identification.)

Q Now, I show you another photograph with apparently the same building in it. What does that photograph show? A This is the Reid Ice



Cream plant on the east side of Mt. Pleasant avenue, showing the entrance to the office, the driveway, a portion of the rear frame building.

Q Now, where was your camera when that was taken? A The camera was on the west side of Mt. Pleasant avenue—

Q Will you indicate on the upper map? A —at a point about in front of 321, pointing in a northerly direction on Mt. Pleasant avenue.

Q Pointing in about the direction of the arrow which you have just made? A Yes.

Q Will you mark that as S. 5?

(Photograph marked S. 5 for identification.)

Q Now, I show you the third photograph you handed me a moment ago and ask you what that represents? A This is looking north into Mt. Pleasant avenue from the south side of Clay street; in other words, from in front of No. 81, 83 and 85 Clay street, the camera on the southerly curb, facing north, so marked CS. 6.

Q The C, I suppose stands for Camera? A Camera.

Q Will you put a C up there in front of S. 5? A Yes.

(Photograph marked S. 6 for identification.)

*Cross examination* by Mr. McGeehan.

Q What time of the day did you take these? A Those were made about a half hour after the alleged holdup.

*John L. Day, cross.*

Q Will you tell us what time of the day? A The hour was approximately between 9:30 and ten o'clock.

Q You were not at the holdup? A No.

Q You think that time was approximately a half hour after the holdup? A To my best judgment.

Q Of course, you do not know whether the movable objects such as automobiles were in the positions shown upon these photographs were changed before you took the pictures, do you? A No.

Mr. McGeehan: If the prosecutor will agree that the position of movable objects such as automobiles are not offered to be moved by these photographs I will, for my defendants, consent to their admission, that is, that the movable objects have no significance in them.

Mr. Kavanagh: As far as I am concerned, I quite agree with Mr. McGeehan's objection. Of course, the testimony of Mr. Day is that he took those photos one half hour after the alleged holdup. Of course, they cannot represent exactly and minutely the positions of the objects at the exact moment of the alleged holdup, so if the prosecutor will agree to that I will also.

Mr. Bigelow: We do not urge that these photographs are essence that the movable objects were at the time of the holdup in the same position shown on the photographs.

(Photographs marked Exhibits S. 4, S. 5 and S. 6.)



*John L. Day, direct.*

Q I show you a photograph apparently of the side of an automobile and ask you if that is your work? A Yes.

Q When did you take that photograph? A July 19th.

Q Where? A In front of the garage of the Reid Ice Cream Company on Mt. Pleasant avenue.

*Cross examination* by Mr. McGeehan.

Q This was taken on the 19th of October, I think you said? A In July.

Q Oh, the same day that you took the other pictures? A Yes.

Q Of course, you took a photograph which you were directed by your superiors to take? A Yes.

Q And you do not know what that object is or how it got in that position? A I know what the object is. It is the side of an automobile?

Q Yes, but you do not know anything further of it except it was an automobile? A I do not know who owned the automobile.

Mr. McGeehan: We will consent to that being admitted subject to being connected up in some way with the case.

(The photograph admitted in evidence and marked Ex. S. 7.)

*Direct examination* continued by Mr. Bigelow.

Q I show you another picture of an automobile and ask you if you took that photograph? A I did.

*John L. Day, direct.*

Q On the same day? A The same day, the same time, and it is the same automobile.
Q As shown in Exhibit S. 7? A Yes.

Mr. Bigelow: I offer the photograph in evidence subject to it being connected up.

(Photograph marked Exhibit S. 8.)

Q Now, you have several other photographs in front of you, which you have already testified you took on some date in October? A Yes, sir.
Q What date in October? A The 28th.
Q What is this photograph, looking along a street with a gas station on the left? A It is a view of Clay street and Carlisle place, looking in an easterly direction from the southeast corner of Spring street. The camera was at the southeast corner of Spring street facing in an easterly direction, so marked C.S. 9.

Mr. Bigelow: Please mark the photograph for identification.

(The same is marked S. 9 for identification.)

Q And what is this photograph with a building bearing the sign "Albert Company, Brass Founders." A The building located at 81-85 Clay street. The camera was placed on the easterly rail of Clay street facing in a southerly direction, showing the front of the building, so marked C.S. 10.

Mr. Bigelow: Mark this photograph for identification.

(The same is marked S. 10 for identification.)



*John L. Day, direct.*

Q Now, will you look at this photograph again, which is marked S. 10 for identification, and see if that photograph does not show in the foreground a trolley track and then tell me where the camera was placed, where you had it placed. A The rail is shown in the picture, the curb and the rail, it was about on the easterly rail of Clay street, that is the easterly rail, but the north track, that is how it accounts for the track.

Q Now, wasn't that picture taken across the tracks? A Yes, sir, in this position, (indicating) it shows more the front, on account of the curb there, and that is what shows the rail—

Q I ask you to look at it again and tell me whether you cannot see four rails in the picture. A Yes, sir.

Q Well, then, must not the camera have been north of the tracks? A You are right, Mr. Prosecutor, the camera, as I recall now, was on the westerly rail of Clay street.

Q These rails run east and west. A Apparently, yes, sir, east and west. This would be the westerly rail and this would be the easterly rail (indicating). I should judge it would be about in the center of the street on the photograph and facing in a southerly direction, or southeast direction, to be more exact, showing the building at 85 and 81 Clay street.

Q Will you mark that arrow CS. 10? A Yes, sir.

(The witness marks as requested.)

Q I show you another photograph with buildings on each side of the street marked "Reid's

Ice Cream.'' Can you tell me what that photograph shows? A That is looking north on Mt. Pleasant avenue from in front of the driveway of the Reid Ice Cream plant, so marked CS. 11, taken from the centre of the street.

Q The paved part on the right foreground of that picture is that the driveway or the westerly side of the driveway? A The entrance to the driveway, yes, sir.

Mr. Bigelow: Please mark this photograph for identification.

(The same is marked S. 11 for identification.)

Q I show you another photograph of a building marked ''Reid's Ice Cream'' and ask you where that picture was taken? A This was taken from the west side of Mt. Pleasant avenue, directly east, so marked CS. 12.

Mr. Bigelow: Mark that photograph for identification.

(The same is marked S. 12 for identification.)

Q This photograph which is marked for identification S. 12 shows the front of the building with a porch on the front of it. Is that the building which appears on Exhibit S. 1, marked in red on the east side of Mt. Pleasant avenue about one-half between the ''Capital T'' in Pleasant and the ''A'' in avenue? A Yes, sir.

Q The photograph shows a glimpse of the right side of the building, is that the southerly side of the building which I have just mentioned, shown in Exhibit S. 1? A Yes, sir.



Q Now, I show you another photograph of a street with trolley tracks on it and a sign ''Stop'' and that is in the centre of the street. What street is that? A Belleville avenue.

Q And at what intersection? A At 3rd avenue looking north about 25 feet south of 3rd avenue.

Mr. Bigelow: Please mark that photograph for identification.

(The same is marked S. 13 for identification.)

Q One more photograph shows a street with a large apartment house, I take it, to be on the left of the photograph? A Yes, sir.

Q What does that show? A That is looking east on 3rd avenue about 25 feet west of Belleville avenue.

Q Is the four-story building shown in that photograph the same building as is shown in the photograph S. 13 for identification? A Yes, sir.

Mr Bigelow: Mark that photograph for identification.

(The same is marked S. 14 for identification.)

Q I show you, Mr. Day, Exhibit S. 3, and call your attention to a red block which has been testified to represent a brick building at the corner of Belleville avenue and 3rd avenue, the northeast corner marked on the map C. 1; is that the same building shown in Exhibit S. 13 and Exhibit S. 14 for identification? A Yes, I believe it is.

Mr. McGeehan: We consent to the admission of these. We object to the admission of photographs S. 11 and 12 for identification, upon the ground that they show conditions that have not been shown to have been proven as the condition at the time of the crime charged as the condition of the street and the building.

Mr. Kavanagh: The same objection.

Mr. Bigelow: I understand there is no objection to the admission of S. 9, 10, 13, 14.

Mr. McGeehan: That is right.

Mr. Kavanagh: Yes, that is agreeable.

(Photographs marked Exhibits S. 9, S. 10, S. 13 and S. 14.)

Mr. Bigelow: I understand the ground of the objection to the other two photographs is there is no proof the conditions on July 19th were not as on the day the photograph was taken.

Mr. McGeehan: Yes.

Mr. Bigelow: We will prove that later, and offer them again.

Cross examination waived.

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ROBERT W. BOUDREAU, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Boudreau is spelled B-o-u-d-r-e-a-u? A Yes.

Q Has that always been your name? A No, sir.



Q How long has that been your name? A About eight years.

Q Who did you get your name from? A From my grandmother.

Q Did you live with her? A I did, I was brought up with her.

Q Since you were how old? A Two years old.

Q How did you happen to go to live with her? A My father and mother separated.

Q When you were two years old? A Yes.

Q And then your grandmother brought you up? A Yes.

Q And she was Mrs. Boudreau? A Yes.

Q And so you took her name? A I did, yes.

Q You have been convicted of crime, have you? A Yes.

Q More than once, I believe? A Yes.

Q When were you first convicted? A About seven years ago at Chelsea, Mass.

Q What was the offense? A Thirty days for a ring.

The Court: Was that for stealing a ring?

The Witness: Accused of stealing a ring from a load of furniture.

Q When were yon next convicted? A About five years after that—or about two years after that.

Q And what were you convicted of then? A On a load of furniture, drinking, convicted of being drunk.

Q You were convicted of stealing a load of furniture? A Yes.

Q A whole load or just part of it? A Just part of it.

Q How many pieces of furniture? A About three or four.

Q What did the judge do? A Put me on probation.

Mr. McGeehan: I object.

The Court: It has been answered. If you want it stricken out I will strike it out.

Mr. McGeehan: I do.

The Court: Strike it out.

Q Holdup or robbery is the taking of the property of another by force or putting him in fear. Were either of these crimes of which you were convicted robbery or a holdup? A No, sir.

Q Was there another conviction in your record? A Probation, yes.

Q Were you convicted the third time? A I do not know just what you mean by that.

Q You have already testified that you were convicted of stealing a ring and of stealing some furniture, that is twice, and I ask if there was a third conviction? A No.

Q Where were you living on the 19th day of July of this year? A 16 Ogden street.

Q 16 Ogden street here in the City of Newark? A Yes.

Q About what time did you get up that morning? A What morning are you referring to?

Q The 19th day of July? A About seven o'clock.

Q And where did you go? A I went to Broad street.

Q How long did you stay there? A About an hour.



Q In approximately one place on Broad street? A Yes.

Q What happened then? A I met Little Joe Juliano.

Q Do you see him in the court room here? A Yes.

Q Which one is it? A The second one in.

Q Come down and point him out. Please step up closer.

Mr. Bigelow: Do you admit, Mr. Kavanagh, that that is the defendant, Nicholas Joseph Juliano?

Mr. Kavanagh: Yes.

Q Did he arrive afoot, by an automobile or how? A He arrived in an automobile, a Hudson brougham.

Q Then what did you do? A I got in with him.

Q Where did you and Juliano go? A We went to Drift street.

Q Here in Newark? A Yes, sir.

Q Near what street? A Near Clifton avenue.

Q How did you reach there, if you recall? A We went down Broad street to State street, State street to High and High street to Orange, and then we went through a little street into Clifton avenue, I don't know the name of the street.

Q And along Clifton avenue? A Pretty near up to Drift street.

Q I did not catch that. A Not quite to Drift street, just about a few feet away from it.

Q And there you stopped? A There we stopped.

Q What did you do then? A I sat in the car.

Q What did Juliano do? A He got out of the car and went down Drift street.

Q Afoot? A Afoot.

Q And you sat there and waited for him? A I did.

Q Did you see him again? A I did.

Q About how soon? A About fifteen to twenty minutes.

Q Did he come that time afoot or in an automobile or how? A He came in an automobile.

Q And where, what point did he stop the automobile? A He came on Drift street and headed toward Park avenue and Clifton avenue.

Q And stopped the car? A Stopped the car.

Q At that time you were in the Hudson brougham a little south of Drift street on Clifton avenue, as I understand it? A Yes, sir.

Q That is on the side of Drift street toward Orange street? A Yes, sir.

Q And this other car stopped on Clifton avenue a little north of Drift street, that is on the other side of Drift street from Orange street? A Right.

Q Did it stop? A It did.

Q What did you do then? A I was called to come over toward the car, and I went over to the car that they were in.

Q Did you get in? A I did.

Q How many men were in the car? A There were three men in the back and one in the front.

Q Who was the man in the front? A Little Joe Juliano.

Q Who were the men in the back? A I did not know them at that time.



Q Do you see them in court here now? A I do.

Q Will you come down and pick them out?

(The witness leaves the stand and indicates the defendants Joseph Juliano, Louis Capozzi and Christopher Barone.)

Mr. Bigelow: You will admit, Mr. McGeehan, that he has indicated the three defendants whom you represent, Big Joe Juliano, Louis Capozzi and Barone?

Mr. McGeehan: Yes, sir.

Q What kind of an automobile was that you got into then? A It was a Pierce Arrow.

Q What was its color? A It was green.

Q I don't know whether you have said what seat you took or not. A I took the driver's seat.

Q Which way did you drive? A I drove toward Park avenue.

Q Did you get any directions about driving while you were in the car? A I did.

Q When you got to Park avenue, or as you were approaching there where were you told to go? A I was told to turn down Park avenue.

Q Did you do so? A I did.

Q How far down did you drive? A I drove to Bloomfield avenue.

Q Then which way? A I went down Bloomfield avenue toward Belleville avenue.

Q Did you reach Belleville avenue? A I did.

Q Where did you go from there? A I turned over Broad to Clay street.

Q Did you receive any instructions when you reached Clay street or after you got there? A

I received instructions as I approached the place, and was told to stop.

Q Where were you told to stop? A On the right side of Clay street.

Q Did you stop? A I did.

Q Now, look at the map, Exhibit S. 1, and see if you can tell from that map about where you stopped? A About in here (indicating).

The Court: Is that near the foundry?

Mr. Bigelow: Yes, indicating a point on the map about three-quarters of an inch east of the arrow marked CS. 6.

Mr. McGeehan: Approximately opposite the center of Mr. Pleasant avenue?

Mr. Bigelow: Yes, sir.

Q Now, will you look at the photograph S. 10 and see if that shows the place where you stopped the car? A It does.

Q About where on that photograph was the front of your car when you stopped? A About in here (indicating).

Q About opposite the door on which there is a white spot? Will you indicate with your finger on the photograph about where the front of that car was when you stopped? A About in here (indicating).

Mr. Bigelow: Indicating the northerly part of the building marked "Albert Company."

Mr. McGeehan: About in front of the white door shown on Exhibit S. 10.

Q Which way was your car facing? A It was facing toward Kearny.



Q Did anyone get out of the car? A Two men got out of the car.

Q Who were those two men? A Chris Barone and Ruff.

Q Which of the defendants? Do not come down this time, but which of the defendants are Chris Barone and Ruff? A The two last two.

Q Barone is on the end? A Yes.

Q And Ruff is the one this way? A Yes.

Mr. Bigelow: Will you have them stand up?

Mr. McGeehan: Yes, Ruff and Barone.

Q Do you know what Ruff's name is? A I do now, yes.

Q What is it? A I cannot pronounce it.

Q Will you pronounce it as well as you can? A C-a-p-a-s-e or something.

Q What kind of a hat did you have on when you started out that morning? A I did not have no hat.

Q Did you have a hat on when you drove up in front of the Albert Company's foundry? A I did not.

Q Did you have anything on your head? A No, sir.

Q What is that? A No, sir, not at that time.

Q Did you afterwards have anything on your head? A I did.

Q What? A A chauffeur's hat.

Q Where did you get that? A One of the three men in the back produced it to me coming down Park avenue.

Q As you were coming down Park avenue one of the three men in the back gave it to you? A Yes.

Q You were driving at that time? A I was.

Q Did you catch which man it was, or didn't you notice? A I didn't notice.

Q Did he say anything to you about it? A A He said put it on and it would make me look like a private chauffeur.

Q Now, how long did you stay with the car there on Clay street, approximately? A It was over an hour, about.

Q Then what happened? A There was some argument. Some car in the back wanted us to move out of his road so we stayed there and Little Joe gave him some argument.

Q Well, did you finally move the car away from Clay street and go somewhere else—strike it out. What did Little Joe say? A He said "Go to hell, I will move when I get ready."

Q Did you finally move your car away from Clay street; did you finally drive away? A Not then, no, sir.

Q Well, did you finally drive away? A We did.

Q Where did you drive to? A We drove in front of the Reid Ice Cream Company plant.

Q What happened just before you went there, if anything; why did you drive up there? A Well, we got a signal.

Q Who from? A Chris Barone.

Q What kind of a signal? A A handkerchief. He waved.

Q He pulled out a handkerchief? A Yes.

Q You drove up to the Reid Ice Cream Company? A I did.

Q Going north on Mt. Pleasant avenue? A Yes.

Q And where did you stop your car? A I stopped it alongside of a Chevrolet coupe.



Q Where was the Chevrolet coupe with reference to the Reid Ice Cream Company as shown on the map Exhibit S. 1? If you cannot find it do not hesitate to say so. A About here.

Mr. Bigelow: Indicating a point about one-half inch west of the words shown on the map—

Mr. McGeehan: Toward the southerly end of the building, or at the southerly end of the building, containing a porch. Is that right, Mr. Prosecutor?

Mr. Bigelow: Yes, that is correct.

Mr. McGeehan: Indicating a point between what was marked the curb line and the porch on the map.

Mr. Bigelow: Yes.

The Court: Well, has the witness testified as to the exact location with reference to the building?

Mr. McGeehan: Yes. He pointed his finger to the spot and that is what we are agreeing upon now.

Q I show you Exhibit S. 11 for identification and ask you to look at that photograph carefully and see whether the building—I am not speaking of the automobile, but the building and the street and the pavement as shown in the photograph are substantially as they were on that 19th day of July? A The Chevrolet is not where it was.

Q I am not asking you about the automobile. I am asking you about the buildings and the street? A Yes.

Q Will you look at Exhibit S. 12 for identification and tell the jury if that shows the condition as it was at that day, excluding again all

reference to automobiles and people and so on? A Yes, sir.

Q Now, where was the Chevrolet coupe on July 19th, where would it be shown on this photograph? A It would be shown just about in here.

The Court: You had better mark it, if you can.

Q That is a few feet in front of where the car is standing in front of that photograph? A Yes.

Mr. McGeehan: What will we number that?

Mr. Bigelow: This is Exhibit S. 11 for identification.

The Court: Is there any objection to this going in now?

Mr. McGeehan: I did not know you were referring to a photograph not in evidence. I do not think the witness can testify from a photograph marked for identification. I ask that that be stricken out.

Mr. Bigelow: We have to connect up the photographs so they can be offered in evidence.

The Court: No, but the photograph as it stands now, is simply marked for identification and the witness referred to it and indicated where an automobile was as something not in evidence and that photograph at this time the jury cannot get the benefit of that.

Mr. Bigelow: Well, I offer this photograph in evidence at this time, I think it has been sufficiently identified.



Mr. McGeehan: I object.

The Court: I think the witness said it is the same, but the car was not there.

Mr. McGeehan: I object on the ground that it shows movable objects, to wit, an automobile and a motor truck which are shown in the photograph and which were not and are not proven to have existed in the same manner as the time the photograph was taken, and consequently, contains matters not evidential against the defendants.

Mr. Kavanagh: The same objection.

The Court: I will admit it subject to the same explanation that these objects were not there and admit it as containing simply an exact reproduction of the place at this time.

Defendants' counsel pray an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: There is no proof that these objects were there. I am admitting the picture subject to the qualification of a witness.

(Photograph marked Ex. S. 11.)

The Court: Now, the witness' answer is competent as showing where the Chevrolet was at the time.

Q This photograph shows a car on the right mostly up above the curb line. Is that the way the Chevrolet was at that time? A It was over the curb line.

Q That is, the Chevrolet was not standing in the asphalt portion of the street? A No.

Q It was standing up in what would ordinarily be the sidewalk? A Yes, sir.

Q And now, you have testified that you drove a Pierce Arrow up alongside of this Chevrolet. Where did Barone and Ruff go while you were driving the car up there? A As I started to drive the car up, they ran up alongside of the car to the Reid plant.

Q Up to the same point? A Yes, sir.

Q What happened then? A Ruff and Chris came around the front of the car, both having guns and said, "Stick 'em up," and then they went back. First I saw the little boy come down.

Q The little boy was not one of the defendants? A No, sir.

Q Where did he come down from? A From the Reid's plant.

Q Did anybody else come down? A Yes, sir.

Q A man? A Yes, sir, Mr. Condit.

Q You did not know at that time Mr. Condit, did you? A I did.

Q Did they carry anything with them? A They had bags.

Q And where did they go when they came down? A They went toward the car, the Chevrolet coupe.

Q And was it at that time that Barone and Ruff came running up? A They did.

Q Then what happened? A Then I was told to put the car in second, then I heard a shot.

Q Who told you to put the car in second? A Little Joe Juliano.

Q Where was he at that time? A He was in front with me.

Mr. Kavanagh: Where?



The Witness: In the front seat.

Q And you heard a shot? A I did.

Q Did you see any result of the shot? A I did not.

Q Then what happened? A Then I heard another shot.

Q And then? A Then I saw Chris put something in the car.

Q Did he put it in front beside you or in back? A He put it in the back.

Q And then where did Chris go? A The other shot was fired right after, and they both got in there.

Q Both, what do you mean by that? A Ruff and Chris.

Q And did you do anything at that moment? A I was looking ahead, I was told to keep her in second.

Q And after they both got in, what were you told to do? A I was told to go ahead.

Q Did you go ahead? A I did.

Q Now, you have told us where Ruff and Barone were, and you have told us that Little Joe told you to put the car in second. Where was Big Joe all this time? A In the back seat.

Q Did you see what happened to the two bags? A I did not.

Q You drove off then? A I did.

Q Where did you drive to? A I drove up Mt. Pleasant avenue.

Q How far? A Up to Gouverneur street.

Mr. Kavanagh: What street?

The Witness: Gouverneur.

Q And which way did you go then? A I turned left on Governeur street.

Q How far? A Up Broad street.

Q And then? A I turned right on Broad street to 3rd avenue.

Q And then? A I turned left on 3rd avenue to Belleville avenue.

Q What happened there, if anything? A I left them there.

Q What is that? A I left the car at 3rd avenue and Belleville avenue.

Q You got out of the car? A I did.

Q How did you happen to get out of the car? A I was told that I would be dropped off within three or four blocks.

Q Were you told what to do, if anything? A Yes, sir.

Q What were you told to do? A I was told to go back to the Reid plant and see if anybody was recognized.

Q Who told you that? A Little Joe Juliano.

Q Did you stop the car completely before you got out? A I did not.

Q Which way did the car go after you got out? A The car headed toward North Newark.

Q Which way did you go? A I came back over 3rd avenue.

Q Did you go back to the Reid plant? A I did not.

Q Were you still wearing your chauffeur's hat? A I was not.

Q What did you do with that? A I left it in the car.

Q You testified that you did not see the results of the shots, that you heard? A Yes, sir.

Q Was there any conversation in the car as you sped along about whether anybody was hurt or not? A There was a conversation that started that nobody was hurt.



Q And do you know who said that? A Little Joe Juliano said that.

Q Did you see anything in any of these men's hands besides—you testified to pistols in Barone's and Ruff's hands. Did you see anything in any of the other's hands? A Yes, sir.

Q What? A I saw a revolver in Joe's hand, little Joe.

Q He was the one who was sitting alongside of you? A Yes, on the front seat.

Q Now, you were told to go back and see if anyone was identified. Were you told where to report afterward? A Yes, sir.

Q Where? A Up on Drift street.

Q At what place? A At a club house.

The Court: What was the name of the club, do you know?

The Witness: I do not.

Q Did you see any other automobile or truck on Mt. Peasant avenue besides the Chevrolet coupe? A I did.

Q I show you Exhibit S. 11 and ask you if you can tell me on that picture where or approximately where you saw that truck? A Just about where it is at present.

Q Just about where the truck is that is shown in the photograph? A Yes, sir.

Q Was there room between the front of that truck and the curb for you to pass with your Pierce Arrow? A There was not.

Q How did you get by? A I pulled up on the curb, there is a little driveway there, or there used to be.

Q How long did you continue to live at 21 Ogden street, was it? A 16 Ogden street.

Q How long did you continue to live there? A Up to the time I was arrested.

Q When was that? A It was in October, I don't recall the date.

Q Did any of these defendants at any time live there? A Yes.

Q Which one? A Little Joe Juliano.

Q When did he come to live there? A About ten weeks after the hold-up.

Q That would have brought it to sometime in September? A Yes, sir.

*Cross examination* by Mr. McGeehan.

Q Boudreau, you say your name is Robert W. Boudreau, is that right? A Yes.

Q Is that right? A Yes, that is right.

Q You have used that name for about how long? A Well, ever since I was two years old. I have had the name.

Q Ever since you were two years old? A Yes.

Q How old are you now? A Twenty-eight.

Q Do you remember saying on direct examination that you had been using that for about eight years? A Yes.

Q You mean you have been using it for twenty-six years? A No.

Q Well, didn't I understand you to say that ever since you were two years old you used it? A Yes.

Q Well, how long is it you used it? A Well, I have carried my own name since.

Q Oh, you do not use the name Boudreau any more, is that right? A Yes, I have been using it right along lately.

Q You were not born a Boudreau, christened? A No.



Q What is your real name? A Gamach.

Q How do you spell it? A G-a-m-a-c-h.

Q What other names have you gone under? A My step-father's.

Q Well, give us the name. A Ethridde.

The Court: Spell it.

The Witness: E-t-h-r-i-d-d-e.

Q How long did you use the name Gamach? A I never used it, very seldom.

Q Only on occasions? A No, sir.

Q When did you use Gamach? A I used it in Boston.

Q How long did you live in Boston? A About four years.

Q Was it from there that you moved to Dear Island? A From Boston?

Q You spent a stretch at Dear Island? A I did.

Q What was that for? A For a ring.

Q For a robbery of a ring? A Supposed to be.

Q For a hold-up? A No.

Q But you were convicted of robbery? A I was.

Q And you know with the explanation of the Prosecutor that robbery—that a hold-up is the crime of robbery in court, don't you? A I don't know what to say.

Q You know that hold-ups is the term used in general for the crime of robbery? A I didn't know it.

Q You are pretty experienced in committing robberies, aren't you? A No, sir.

Mr. Bigelow: I object.

The Court: Proper objection.

Q Where did you use the name Ethridde? A In Boston.

Q You used both Gamach and Ethridde in Boston, is that right? A Yes.

Q Now, have you used any other name? A No.

Q You are sure of that? A Positive.

Q Nowhere have you used any other name? A No.

Q You swear to that? A Yes.

Q Where did you go to live when you came to Nutley first? Well, you went to live at the Central Hotel, didn't you? A Yes.

Q And you lived there under the name of Robert Lambert? A No, sir.

Q What name did you live under? A I lived under the name Boudreau.

Q You are sure about that? A Positive.

Q How long did you live there? A I was only there about two weeks.

Q And you are sure you did not sign the name Robert Lambert on the register of that place? A I do not recall signing that name.

Q You are not sure? A No, sir.

Q You might have used Lambert? A I do not recall that.

Q Well, you were known as Lambert for awhile, weren't you? A No, sir.

Q But there is no other name you have been known by? A Yes, there is.

Q Well, why did you say a minute ago that you swore there was not, because you think I know something about you? A No.

Q Because I said you lived at the Central Hotel, is that why you want to change it? A No.



Q You want to change what you said before that you have no other name? A I recall using the name Gordon a couple times.

Q Isn't Gordon your right name? A No.

Q Did you forget all about the name Gordon a minute ago? A Yes.

Q Aren't the initials R. C. tatooed on your arm and isn't that your real name? A Yes, Gamach is my real name.

Q But you have used the name of Gordon a great deal, have you not? A Well, I give it to girls, yes, I will admit that.

Q You have been known as Gordon? A To a few of the girls, yes.

Q And to a few men? A Not that I recall.

Q Do you know you are under oath now, Boudreau? A I do.

Q Do you know that three men—four men are being tried for their lives on a charge of murder here? A I do.

Q From the time that you have been arrested, Boudreau, you have been at police headquarters, haven't you? A I have.

Q And who have been around you all the time? A There has been nobody around me.

Q No detectives? A Yes.

Q No one but detectives? Have there been? A Correct.

Q Who bought your suit of clothes? A I bought it myself.

Q Since you were arrested? A No, sir; before I was arrested.

Q That is not the suit you were arrested in? A Yes.

Q That is the suit you were arrested in? A It was.

Q And Boudreau, have you been in fear while at headquarters—do you want to take a drink? A I just had one.

Q Have you been in fear while you were at headquarters? A No, sir.

Q Have you at times been in fear since you were arrested? A No.

Q You have not been afraid a minute since you were arrested? A Well, I was a little bit leary.

Q Leary of what, the electric chair? A Well, not exactly.

Q Well, would you be leary of that? A Well, if it was punishment for me I would have to take it.

Q And you would be afraid of it? A Naturally.

Q And you would do almost anything to avoid it, wouldn't you? A Yes, sure.

Q Well, Boudreau, before I ask you a lot of questions I am going to ask you one grave question. Do you want to change the story that you told that the three defendants Barone, Joe Juliano and Ruff were with you on that day? A No.

Q You do not want to say different than that? A No.

Q That is not the truth? A It is.

Q When did you first tell the police that they figured in this hold-up with you? A About two days after I was arrested, or a day.

Q And were you questioned continuously during that day or two days by the police? A I was.

Q Were you told that a man named Bielke had told the police that you had admitted to him that you were in the holdup? A Not that I recall.



Q Didn't they tell you that? A Not that I recall.

Q Didn't they have you and Bielke there under arrest together? A Yes, sir.

Q Didn't they question him and you together? A Yes, they did.

Q Didn't they ask you about what Bielke said you said in a restaurant with two girls? A They did.

Q And they told you you would go to the chair unless you told them that you were in it and who was in it with you, didn't they? A No, sir.

Q Never mentioned that to you? A No, sir.

Q You knew that a murder had been committed, when you were at the Reid place that day in July, didn't you? A Not at that time, no, sir.

Q But you knew it when you were in police headquarters under arrest being questioned then, you knew it, didn't you? A I did.

Q And you know what they were questioning you about was something that involved a charge of murder against you, didn't you? A Yes, sir.

Q And they told it to you, didn't they? A No, sir, I confessed.

Q Yes, but it took you two days to confess, didn't it? A Not quite.

Q Well, a day and a half? A About that.

Q And you were under heavy questioning all that time, weren't you? A No, sir, I told everything I knew.

Q Since then you have had steaks and Melachrino cigarettes and everything you wanted, haven't you? A I have not.

Q You have had those things when you asked for them, haven't you? A Yes, sir.

Q And they would serve them to you, wouldn't they? A Not all the time.

Q But a great deal of the time? A No, sir, not that I recall.

Q Then, when you would want Melachrino cigarettes you would order them, and steak, wouldn't you, at headquarters? A I never got them.

Q Now, you swear again that you never got them? A The cigarettes, yes.

Q What kind of cigarettes? A I had Camels.

Q You got them when you wanted them, didn't you? A Sometimes I paid for them myself.

Q But usually they would be given to you for nothing? A No, I would ask for them.

Q And you would get them for nothing? A Yes, sir.

Q From the police? A From different police, yes, sir.

Q Ever since you have made a statement, you have not been in the jail, have you? A No, sir.

Q You have been down in headquarters all the time, haven't you? A I was.

Q And you were talked to every day about this case, weren't you? A No, sir.

Q Nearly every day? A No, sir.

Q Often? A I think I have been approached about twice.

Q Only twice since you were arrested? A Oh, I have talked about the case, yes.

Q When were these two occasions? A I do not recall when.

Q Where was it that you were talked to? A I would ask different things about the case.



Q They would not ask you anything? A No, sir.

Q Why, you have signed three different statements in this case, haven't you? A No, sir.

Q How many different statements have you signed? A I have signed two.

Q Two different ones. Now, in addition to those two times, you have been questioned many times before, haven't you? A I don't get what you mean.

Q What? A I don't understand what you mean.

Q In addition to the two times when you actually signed statements, you have been questioned many times, haven't you, by the police? A Not since the statement, no, sir.

Q Not at all? A Not at all, no, sir.

Q Haven't you been talked to yesterday and the day before and last week and questioned by Captain Brex? A No, sir.

Q Have you been questioned by the prosecutor? A No, sir.

Q Have you been questioned by Assistant Prosecutor Fisch? A I have not.

Q Have you been questioned by the officers of the prosecutor's office? A No, sir, I gave my statement to Mr. Fisch one night.

Q Tell the truth about it, the facts, he questioned you, naturally, didn't he? A No, I confessed to him.

Q You confessed to him, that was last week? A I don't recall the date, it was shortly after my first statement.

Q What did you confess to? A I told him the way the thing happened.

Q And was that the way you said it on the stand or another way? A The way I am repeating now.

Q Now, you were promised great benefits and advantages, weren't you— A (Interrupting.) No, sir.

Q Let me finish. Don't be so eager to say that. You were promised great benefits if you would testify that these defendants were with you, were you not? A No, sir.

Q Weren't you told that it would save you from the electric chair? A No, sir.

Q No one mentioned that at all in all the questioning among the detectives? A No, sir.

Q How many detectives were around when you were questioned? A There were three, four with Captain Brex.

Q And how many hours did they question you and talk to you before you signed the statement? A About four or five hours.

Q And what were they saying to you all the time they they were talking to you, that four or five hours? A I confessed to them, I told them, I told them it was worrying me, preying on my mind, I wanted to get it off.

Q It was preying on your mind and you wanted to get it off? A Yes, sir.

Q That is why you did what? A Confessed to the police I was in the holdup.

Q But it took you four or five hours to let them know that it was preying on your mind? A Yes, sir.

Q Now, what were they saying to you all that time? A I don't recall.

Q You don't recall a word of it? A They asked me where I was at different times.



Q Didn't they say it would be better for you to tell the truth? A No, I don't recall that.

Q Didn't even say that, any of these four detectives after hours of questioning? A Captain Brex asked me to tell the truth about it.

Q What did he say he would be able to do for you if you would tell the truth? A He didn't promise me anything.

Q When you were arrested, you did not say that Joe Juliano and Christopher Barone and Capozzi were with you, did you? A When I was arrested?

Q Yes. A No, sir, not at that time.

Q When you first made a statement to the police saying you knew something about this matter, did you then say that these men were with you? A I did.

Q Did you say that you were in it or not in it? A I said I was not in it.

Q You lied to them, then, didn't you? A Yes, sir.

Q Well, it wasn't a matter of conscience in wanting to tell the truth that made you swear then, that you were not into it, was it? A I don't get what you mean.

Q It wasn't preying on your mind so you wanted to tell the truth about it, was it? A Not then, no.

Q But you did first, when you made a statement, say that these men were in it, didn't you, and that you were not in it, is that right? A No, sir.

Q Didn't you say at the beginning that you were not in it yourself? A I did, yes, sir.

Q And that wasn't true then, was it? A That was repeated upstairs in a cell.

Q That wasn't true, then, was it? A No, sir.

Q You lied, didn't you, as to that? A Yes, sir.

Q Now, I want you to listen to this question very carefully. Did Captain Brex say to you, "Boudreau, you have been talking in front of Bielke and two girls and you said you were in the Reid holdup. Now, you come clean or you will go to the electric chair. We know you were there; we know you lived with young Joe Juliano so he must have been there with you, and we know that young Joe Juliano has a cousin, Big Joe who goes around with Kid Ruff and with Barone, so they must have been there. You tell on them, and we will save you." Is that the way you came to name them, even before you said you were there? A No, sir.

Q Are you sure of that, Boudreau? A Positive.

Q But he mentioned their names to you, in that six or seven hours' time, didn't he? A He did not.

Q Who mentioned them to you? A I mentioned them.

Q Who mentioned them to you? A I mentioned them.

Q During the six or seven hours' talk that you had? A Yes.

Q Now, they were talking to you to get you to say something, weren't they? A Not that I know of.

Q Oh, well, did you think they were talking to you to entertain you? A Well, they were trying to get what they had on me, that is all.

Q What did they say they had on you? A They did not say what we were picked up for then.



Q They did not tell you what you were picked up for? A We were picked up on suspicion.

Q You mean to say they never once in that day and a half or two days mentioned what you were arrested for? A No. I am the one that mentioned it myself.

Q You were with a man named Bielke? A I was.

Q And with two girls, at a certain restaurant on Market street two days before you were arrested? A Yes.

Q And while you were there you said in the presence of Bielke and two girls that you were on the Reid hold-up job, didn't you? A I did.

Q And when you and Bielke were arrested and you and he were together in headquarters you knew that you were arrested because Bielki told that you told him that, didn't you? A I did, yes.

Q So it was not true a second ago that when you told us for the five or six hours' questioning for the day and a half or two days that you were there you didn't know what you were arrested for or what job you were arrested in connection with; that wasn't true?

Mr. Bigelow: I object. I do not see how this witness could know.

Mr. McGeehan: I will withdraw the question.

Mr. Bigelow: He said he was picked up on suspicion and he said he mentioned this case.

The Court: Proceed with your question.

Mr. McGeehan: He just testified he did not know it immediately.

Q You know that, when you and Bielke were taken in, it was for the Reid job? A I did not know it then.

Q A minute ago you said you did? A Well, it was after they had us downstairs.

Q It was when you and Bielke was arrested A Yes.

Q You knew right away you were charged in the Reid case? A I didn't.

Q How many minutes after you got there did you know? A I can't say.

Q Twenty minutes? A No.

Q A half hour? A It might have been two or three hours.

Q Well, you were questioned during those hours about the Reid job? A Not then, no, sir.

Q What were you being questioned about? What did they ask you about during those several hours? A That was the day and a half after that I was held that I was asked these questions.

Q Oh, but during the day and a half that you were held you said they questioned you five or six hours of that time, four or five detectives, including Captain Brex. Now, what were they talking to you about and asking you about during all that time? A I was not asked nothing during that time.

Q Didn't you answer before that you were questioned five or six hours during that day and a half? A After the day and a half I was questioned down at Captain Brex's office.

Q You mean to say you were not questioned there before you made this statement? A I was.

Q How long were you questioned before you made a statement? A About four or five hours.



Q Now, I am asking you during all that time what were they questioning you about? A They asked me if I was down on Market street. I told them yes.

Q They asked you if you were on the Reid murder and holdup? A Not right then, no, sir.

Q Well, they asked you where you were on the 19th of July, 1926? A They did.

Q And you knew that was the day you were in the Reid case? A I did.

Q You knew right away what they wanted of you? A Not right then, no.

Q Well, when they mentioned that date you knew it? A Yes.

Q And you knew that Bielke was under arrest since you were arrested? A Yes.

Q And you knew that you had been telling him that you were in the Reid holdup? A I do.

Q Now, Boudreau, you knew all the time what you were arrested for, didn't you? Let's clear that question up. A I didn't.

Q Now, when you told them that you were not there but that the defendants in this case were there—

Mr. Bigelow: I object. There has not been any such testimony at all.

Mr. McGeehan: There has been. I submit very positively—

The Court: Not in that form.

Q Well, when you told them that you had nothing to do with the Reid holdup but that the defendants in this case did—

Mr. Bigelow: I object again. I do not recall any testimony by this witness that

he involved anybody else before he involved himself.

The Court: There was some testimony that he absolved himself.

Mr. Bigelow: He said he denied it himself, but I do not think that he involved anybody else at that time.

The Court: I think he said that he made that remark.

Mr. McGeehan: I am willing to have the record read.

The Court: Probably you can clear it up and ask the question again.

Mr. McGeehan: I want to ask this particular question.

(Question read.)

Q Now, when you told them that, as you said before, you knew you were lying?

Mr. Bigelow: I object to that. I did not catch your Honor's ruling.

The Court: He can ask that question over again.

Mr. McGeehan: Well, I want the record to stand as it is.

The Court: Well, I am interested, too. If you do not put the question, I will.

Mr. McGeehan: Well, I would rather that your Honor ask it.

The Court: Boudreau, when you were at police headquarters did you tell the police that these defendants were implicated in the same holdup and at the same time deny that you were in it?

The Witness: Not that I recall.



Q Did you testify a little while ago in the presence of this jury that you did at first say that you were not in it but that the defendants were? A Not that I recall.

Q You do not recall saying that? A No.

Q You remember saying, in answer to my question, that was a lie, wasn't it, and you said "Yes, it was." Now, what did you mean before was a lie? A I do not know what question you are driving at.

Q You remember you lied before when you said what you did in the beginning when you started making a statement? A What statement was it?

Q Do you remember testifying before that at first you said you were not mixed up in the Reid job? A I did.

Q And you did say that? A Yes.

Q Then later you made a statement, didn't you? A Yes.

Q And in that statement you said again that you were not mixed up in the Reid job and that you named the defendants and said they were? A Not that I recall, no, sir.

Q When you first said you knew something about the Reid job what did you say you knew about it? A I told them that I was the driver of the car.

Q Yes. A And I confessed to the rest.

Q That was the statement you made the second time, that was your second statement? A Yes, and also in the first statement.

The Court: Do you mean when you speak of the statement, do you mean a written statement?

The Witness: Yes.

Q You first admitted verbally by words that you were in the Reid job, didn't you? A I did.

Q And at that time you denied you had anything to do with it? A Not that I recall.

Q You would not swear that you did not, would you? A No, I won't.

Q Now, try and remember, Boudreau, didn't you say that you had no part in it at all to the detectives that were questioning you when you mentioned the names of the defendants? A Not that I recall.

Q You would not say that you did not say that? A No, sir.

Q You just say that you cannot remember, is that right? A I cannot recall saying it.

Q Now, before you said anything about saying anything about the Reid job they mentioned young Juliano's name to you, didn't they? A They did not.

Q They asked you where you lived? A Where I lived, yes.

Q And they asked you who else lived there? A They did.

Q And who did you tell them? A I told them.

Q Who did you say? A Mrs. Crosson and myself and there was another lady there and Little Joe Juliano.

Q And you told them Little Joe Juliano lived in the same house that you lived in, is that right? A Yes.

Q And that was long before you made any statement you knew anything about the Reid job, wasn't it? A No. Shortly after the statements were made.

Q Do you mean to say the police in their hours of questioning you before you made any



statement did not ask you where you lived? A They asked where I lived, yes.

Q And they asked who else lived there? A Yes.

Q And you told them that young Juliano lived there? A Yes.

Q You told them that long before you made your statement? A No, about twenty minutes or half an hour.

Q You did not mean it before when you said you told them that after you made that statement four questions back, do you remember saying that, that you did not tell them until after you made your statement? A I do not recall that, what question are you driving at now?

Q I am asking you, as plainly as I can, whether you do not remember saying, four questions back, that you did not tell them that young Joe Juliano lived in the same house with you after you made your statement, do you remember saying that? A I do not recall it.

Q Now, when you were first arrested they asked you who lived in the same house, didn't they?

Mr. Fisch: Pardon me, but I do not like to interrupt cross examination, but this same question crops up with regard to the statement.

The Court: I think this witness is confused.

Mr. McGeehan: All right. The first thing you said containing that admission that you were involved in or that you knew something about the Reid holdup was a verbal statement, wasn't it, and not a written one.

A It was written down.

Q But before that you said something?

The Court: Just a minute. When you speak of statements it does not necessarily mean written statements. Conversation is looked upon as a statement. Keep that in mind.

Q Right after you were arrested—I will put it this way. You were asked where you lived and what you did for a living and who lived in the same house with you, weren't you? A Yes.

Q You said Young Joe Juliano lived in the same house, didn't you? A Yes.

Q Certainly, and that was within one half hour after you were arrested, wasn't it? A No, sir, about a day and a half.

Q So, the police did not mention young Joe Juliano to you, at all for a day and a half? A No, sir, there was nothing mentioned.

Q They did not mention any of the other defendants' names? A They did not.

Q You are sure of that? A Positive.

Q Where were you arrested? A I was arrested on Orange street—South Orange avenue.

Q Did you hang out on Orange street—

The Court: He said South Orange avenue.

The Witness: South Orange avenue.

Q Whereabouts? A I don't know just whereabouts it was.

Q As a matter of fact, Boudreau, you never knew, I think you said, the defendants in this case at all, did you? The defendants with the exception of young Joe Juliano? A Not before the holdup, no, sir.



Q So that never before the day that you say you participated in a robbery together with these three defendants, Big Joe Juliano, Ruff or Capozzi, and Barone, you never were with them in your life were you? A No, sir.

Q Never hung out with them at all? A No, sir.

Q Never had dinner or lunch with one of them? A No, sir.

Q Never went to a show with one of them? A No, sir.

Q Never met them? A No.

Q And after the time that you say that they participated in a robbery with you, did you ever after that day see anyone of these men? A I did.

Q Were you ever with them? A Not in their company, no, sir.

Q Not in the company of anyone of them, were you? A Not those three.

Q So that the ambit and orbit of your acquaintance with these men is the time you say you met them when you say this holdup occurred, and you never saw them after? A I saw them, after—

Q Just got a glimpse of them as you got by? A I talked to one of them.

Q Which one? A Big Joe Juliano.

Q Passing along the street? A No, sir, we were stopped.

Q Were you in a car? A Yes, sir.

Q And he was in a car? A Yes, sir.

Q Just going by and you spoke to him? A We were stopped.

Q You were not with anyone, I suppose? A I was with Little Joe Juliano.

Q When was that? A Two or three weeks after the holdup.

Q At that time, who else was around? A That I don't know, anybody around there.

Q Did you ever see any of the other defendants at any time from the time you say the hold-up occurred up to now? A Yes, Ruff and Chris.

Q Where did you see Chris Barone? A I saw him at the Mitchell gasoline station at North Newark.

Q Who was with you at that time? A There was Myrtle and Chille, and Little Joe Juliano.

Q And on that occasion, do you remember asking Little Joe Juliano who was that, and his telling you, "he is my cousin, Joe Juliano?" A I do not.

Q Was Chille there at the time? A Chille was there; Joe Juliano was not there.

Q Who was the man that you were with? A Little Joe Juliano.

Q And who was it that was there, that you saw up there, Chris Barone? A Yes, sir.

Q And you asked who he was? A I did not.

Q Do you say that you did not ask that? A I do.

Q You say that on the occasion you have spoken of, the time, the one time that you have seen Big Joe Juliano, you were in front of the house of Little Joe Juliano and his mother was on the stoop, wasn't she? A I was.

Q Do you remember that? A I do.

Q Do you remember the defendant coming along on the other side of the street with his car? A I do.

Q Do you remember his waving and calling young Joe Juliano over to his car? A No, I do not.

Q Do you remember his speaking to young Joe Juliano? A I do.



Q You had no conversation with him then, did you? A I told him about his lugs and his wheel.

Q You told him about his wheel and lugs? A It wasn't the wheel, it was one of those spring locks that locks the wheel.

Q Were you sitting in the car at the time? A I was.

Q Did he stay in his car? A He did.

Q And did he stay there talking to young Joe? A Not at that time, he got out and looked at his wheel.

Q You talked to him and said, "Say, your lug is loose?" A I did not, I got out too.

Q And you pointed to it? A Yes, sir.

Q And that is the only conversation you had with him, wasn't it? A Yes, but before—

Q That is the only time, since you say he was in that job with you? A That's right.

Q And that is the only conversation you had with him at that time? A That's all.

Q Now, isn't it a fact that on that occasion you asked Young Joe Juliano who that was and he told you it was his cousin, Big Joe? A No, sir.

Q Sure are you? A Positive.

Q And isn't it a fact on the occasion that you saw Chris Barone up near the car barns, it was, in Nutley? A It was not.

Q What was the place? A The Mitchell Gasoline Station, North Newark.

Q Is that near where the jitneys stop? A Near the Passaic jitney stop.

Q And on that occasion didn't you ask young Joe who that was and he told you Chris Barone? A I did not.

Q And isn't it a fact that those are the only two times that you ever set eyes on these men at all? A It is not.

Q How long did you know young Joe Juliano? A I met him about ten days before the holdup.

Q About ten days before—that is the first time you ever met him? A Yes, sir.

Q Who did you go around with about the time this holdup occurred, who were your friends?

Mr. Fisch: I object to that, if the Court please, I don't see that that is cross examination.

Mr. McGeehan: Your Honor, I am laying the foundation for one of the most important features of our case by that question.

The Court: But, Mr. McGeehan, you have to do it in a legal way.

Mr. McGeehan: I think your Honor, I can show that this is proper cross examination. I want to endeavor to find out who he was with.

The Court: Ask who was with him and mention the names.

Mr. McGeehan: I will if it is necessary, but I want to ask it in this form and I think I am entitled to do it.

The Court: No.

Counsel for the defendants Joseph Juliano, Christopher Barone and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.



Q You hung out in a lunch wagon, didn't you, a good deal, on Broad street, right around the corner from where the Reid place was, didn't you? A Yes, sir.

Q And you went sometimes to the Firestone A. C., did you not? A What place?

Q The Firestone A. C. on Park avenue up above Clifton or below Clifton? A I know I went some place, but I don't know the name of the place.

Q Well, you know where the Firestone A. C. is, a little store front with letters on the window and curtains in front of it, on the right side going up Park avenue, you did go there, didn't you? A I don't know the place.

Q Well, you went to a place on Park avenue, then, that you did not know the name of? Is that right? A Yes, I went to a place on Park avenue.

Q You also spent some time in a garage, did you not, that was located right next to the lunch room with an alley or a driveway leading down to it and situated in the block right in back of the buildings of the Reid Ice Company on Mt. Pleasant avenue, you spent time in that garage, didn't you? A Yes, sir.

Q You did, didn't you? A Yes, sir.

Q And you had a friend there by the name of George who ran that little garage, didn't you? A Yes, sir.

Q How big a man is George, what does he look like? A Well, he is about five feet something.

Q Pretty tall, isn't he? A About my height.

Q You went around with George quite a good deal, didn't you? A Yes, sir.

Q And you know a man named Brownie who is now in the Penitentiary, don't you, you went around with him and George quite a good deal, did you not? A Yes, sir.

Q And you were with Brownie and George on numerous occasions at night, weren't you? A Yes, we went to New York.

Q Yes, you went to Nutley to an Atlantic and Pacific Tea Store, didn't you? A I did not.

Q Did you admit to Miss Sorensen—

Mr. Bigelow: I object—

Mr. McGeehan: I want to show that this man is a member of a gang who went around committing robberies at this time with men who did not include these defendants.

The Court: Strike that out, and the jury will be instructed not to consider it.

Q Did you also know a man named Pete Ruggero, whose alias was Pete Rogers, and Tony DiPhillips, about the same time? A I did not.

Q Did you know them, did you go about with them in that lunch room? A I ate in that lunch room.

Q You knew them in the lunch room, didn't you? A No, sir.

Q You knew them to talk to? A No, sir.

Q Do you swear to that? A There are fellows I know by sight, but I don't know whether it was them or not.

The Court: He said he did not know these fellows.

Q Oh, you know these fellows, but you don't know their names?



The Court: No, now just a minute—

Mr. McGeehan: I will withdraw it.

The Court: Just a minute, I am correcting what appears to be misleading. The witness did not say he knew those fellows.

Q Mr. Witness, you just stated, if I understood you correctly, that you knew some fellows, but you don't know just who they are, don't know their names, something of that sort, didn't you? A I did.

Q You say you don't know the names of these men, but you do remember do you not, that George and two men, one of whom you knew as Pete and the other as Tony, to the Firestone A. C. on Park avenue, which was run by Pete Rogers and Joe Ross, do you remember that? A I do not.

Q In April or May—who did you go to that place on Park avenue with? A The place I refer to I went with Little Joe Juliano.

Q Anybody else? A No, sir.

Q Didn't you go with Brownie? A No, sir.

Q Didn't you go with George? A I did not.

Q Didn't you go with these two other men whose names you don't know? A No, sir.

Q You are sure of that? A Positive.

Q Do you remember the night before you were arrested being with a girl named Sorenson? You knew such a girl, didn't you? A Yes, sir.

Q She was one of the girls that you and Bielke were with the night that Bielke says you were speaking about the Reid case? A No, sir.

Q But she was with you the night and the nights shortly before you were arrested? A Yes, sir.

Q Do you remember being with her and stopping in front of the lunch wagon, the lunch wagon that I have spoken of, and calling a man out and saying that "We have got a big job on tonight." Do you remember that? A No, sir.

Q Do you swear that did not happen? A I don't recall that, no, sir.

Q Well, do you swear it did not happen? A No, I won't swear.

Q Now, can you remember calling some man out of that lunch wagon the night before you were arrested? A No, sir.

Q Can you tell us if you did, who that was? A I can't say.

Q Can you tell us what he looked like? A No, sir.

Q Can you tell us if it was Pete Rogers of DiPhillips?

Mr. Bigelow: I object.

The Court: He said he did not know these men.

Q Do you know a man named DiPhillips, whose brother was once assistant pay-master and was employed at the Reid Ice Cream Company at the time of the robbery? A I do not.

Q Do you know a man, not knowing his name, who had a brother then working in the Reid place, having been formerly assistant paymaster? A I do not.

Q Do you remember the night just before you were arrested that you were with Bielke and two girls—by the way, you went around with Bielke a great deal too, didn't you? A I did.

Q And do you remember the occasion that I speak of, that you were in the same restaurant



with them a few nights before you were arrested? A I was in there pretty nearly every night.

Q Do you remember one night when you were with Miss Sorenson and another girl from Nutley named Brennan, do you? A I do not recall that.

Q Do you know a Miss Sorenson? A I do.

Q Do you know a Miss Brennan from Nutley? A No.

Q What girl were you with that week with Miss Sorenson who was from Nutley? A I was with a girl by the name of Lillian.

Q Lillian what? A Brooks.

Q Does she live in Nutley? A No, she lives in Kearny.

Q Were you with a girl from Kearny? A Yes.

Q There is no girl named Brennan in Kearny that you know of, is that right? A No.

Q What was Brownie's right name? A That I don't know.

Q Don't you know that? A No.

Q Don't you know whether it was Arthur O'Connor? A No.

Q You do not know any other name except Brownie? A Brownie.

Q What was his first name? A I don't know.

Q You didn't know him very well? A No.

Q Weren't you at any restaurant with Brownie? A I was not.

Q Didn't you ever go to Rhode Island with him, to Providence? A No.

Q Where did you come from? A I come from Boston.

Q Were you born in Boston? A No.

Q Where were you born? A New Hampshire.

Q You are sure you were not born in Arctic, Rhode Island? A No.

Q You have lived in Arctic? A Yes.

Q That was where you were brought up? A No.

Q How long did you live in Arctic, Long Island? A I worked on a dam out there.

Q How long? A About six months.

Q That is near Providence? A Yes, about ten or twelve miles.

Q You were convicted of crime while at Providence, weren't you? A I was not.

Q Did you spend any time in the Jamesburg Reformatory here in New Jersey? A I did not.

Q Now, George and you were very intimate friends? A What?

Q George, who ran that garage in the Reid place? A Yes.

Q You worked for him? A I did.

Q And was there at that time working in the same garage this Sorenson, the brother of this Sorenson girl? A No.

Q Where did you know him from? A From Nutley.

Q And you went out West on a long trip with George, didn't you? A I did.

Q How long were you away? A About three months.

Q How did you go, did you go alone or with somebody? A We went with two girls.

Q And when did you come back? A About the latter part of April.

Q That was about two months before the Reid holdup took place? A About that.

Q And was the person who went out West with you your wife? A No.



Q And you worked on the way where you would stop over, wouldn't you, sometimes? A I didn't.

Q Uh? A We didn't.

Q Didn't do any jobs at all? A No.

Q Do you remember telling the Sorenson girl—you went through Richmond, Virginia, on that trip, didn't you? A Yes.

Q Did you make a stop in Richmond and do some work in Richmond? A No.

Q Uh? A No.

Q Do you know where George is now? A Yes.

Q But you swear that you and George did not make a stop there and do a job down there? A Positive.

Q Were you in Kansas City on that trip? A We were.

Q Did you make a stop there? A Yes.

Q Arrested there? A Yes.

Mr. Bigelow: I object.

The Court: Sustain the objection.

Mr. Bigelow: This is an attempt by counsel to insinuate that this witness has more of a criminal record than we introduced, I do not think it is fair.

duced, I do not think it is fair.

Q What other names have you used besides the ones you told us about; you told us five. Now, are there any more names you have gone under? A No.

Q On the day that you say this holdup occurred what time did I understand you to say you got up? A About a quarter to seven; seven o'clock.

Q And had you any appointment to meet young Joe Juliano, as you said? A I did.

Q When had you made the appointment with him? A The day before.

Q And had you fixed the time and place of that meeting? A We did.

Q Where was that to be? A On Broad street.

Q Any particular place on Broad street? A A little below McGuinness' store.

Q What street was that near? A Well, it was nearer to Harvey than it was to Third or Oriental; it was between Harvey and Oriental.

Q Can't you talk louder than you are on this stand?

The Court: Go ahead and see if you can.

Q Now, when he got there you say he was in a Hudson brougham, is that right? A He was.

Q Did you see any one that you knew at all when you met him? A Yes. I was talking to somebody in the store.

Q Who were you talking to? A Mr. and Mrs. McGuinness.

Q And they were in what store? A What?

Q Where is their store? A It is located on Broad street, about 19 or 21; I do not just know the number.

Q And you were talking to them when you met him? A I was.

Q And were you inside of the store or outside? A I was inside of the store.

Q At seven o'clock in the morning was this? A About ten after seven.

Q And did Mr. and Mrs. McGuinness come out of the store? A They did not.

Q You were pretty well known right there, you know a number of people? A I did.



Q And did you see anybody that you knew that saw you meet young Joe? A No, sir, not that morning.

Q Did you own a car at the time? A I did not.

Q When you got there you say you got into the car with him and drove away? A Yes.

Q Did you know where you were going? A I didn't, no.

Q Who had suggested this appointment, you or young Joe? A Young Joe.

Q Did he say anything about what it was to be for, what was the purpose? A He did not.

Q So you did not know that there was to be any crime committed or holdup or anything when you went there? A I did.

Q What? A I did.

Q How did you know that? A It was about two or three days after I met him that we were out one night and he asked me to go on a job with him.

Q Yes, that is young Joe? A Yes.

Q And you did not go on any job with him? A He asked me if I would.

Q Did you ever go on any job with him? A I did not.

Q So this day you met by appointment, but he did not say anything and you did not say anything what the meeting was for? A Not right then, no.

Q What kind of a hat do you usually wear? A I never wear any.

Q You do not wear any? A No.

The Court: Didn't you say you wore a cap?

The Witness: On the job.

Q You said something you did not wear anything on the job? A I wore a cap on the job.

Q Did you say, turning to the court, something about what you did or did not wear on the job?

The Court: On the job he said he wore a cap.

Q Did you say that? A I did.

Q You mean any job you would go off on you would leave your hat off, is that right? A No.

Q When you got down there you had no hat on, is that right? A When I got down where?

Q To meet, as you say, young Joe Juliano? A No, sir, no hat on.

Q Did you drive away right away? A I didn't.

Q What time did you meet him? A Around ten minutes to eight.

Q So you did not drive right away; how much later than that did you drive away from there? A We drove right away.

Q Did you know where you were going? A I did not.

Q Who did the driving? A Little Joe Juliano.

Q Where did you ride? A I rode alongside of him.

Q Where did you go from the point that you started? A I went with him.

Q Where to? What streets did you go along? A I went along Broad street and turned over State street to High street out High street to Orange and went through some little alley there to Clifton avenue.



Q And you say the car stopped then on Clifton avenue? A Right.

Q Where did it stop, what street was it near? A It was near Drift street.

Q And was it further from Orange street or nearer to Orange street as it stood there? A It was nearer to Drift street.

Q Yes, but, was it toward Orange or away from Orange nearer Drift?

The Court: In other words, had you passed Drift street?

The Witness: I had not passed Drift street.

Q You had not come to Drift street? A No.

Q Now, when your car stayed there you say you remained in it? A I did.

Q And fifteen or twenty minutes afterwards he came back with another auto, is that right? A Right.

Q What time was it then about? A The time I do not recall.

Q Oh, you judged it was about 8:10 or 8:15 when you met downtown, didn't you; wasn't it about 8:10 or 8:15? A I met him at ten minutes to eight.

Q Ten of eight? A About that.

Q And you got up there and it took about how long to drive up to Clifton avenue? A Well, I don't know.

Q What is that? A Well, I cannot tell just how long.

Q Oh, about how long would you say? A I don't know; about twenty minutes.

Q So you think you got up there about ten after eight, is that right? A About that, yes.

Q Then you waited about twenty minutes, you say? A Yes, about.

Q So it was about 8:30 that you say you first saw him come back with an automobile? A I did.

Q Now, when he came back with an automobile what kind of a car was that? A That looked like a Pierce Arrow.

Q What is that? A It was a Pierce Arrow car.

Q What kind of a Pierce Arrow, what kind or type of body was on it? A Sedan.

Q Was it a closed car? A It was.

Q And how many doors did it have? A It had four doors.

Q Four door sedan. Was it a big Pierce Arrow or a little one? A Well, it looked like a little one.

Q You were not familiar with a Pierce Arrow? A No.

Q Was it—how old? A Well, it might have been 1923—4, it might have been a two.

Q What color was that car? A It was a greenish color.

Q Right or left-hand drive? A Left.

Q Now, who did you say was in that car at the time it appeared? A There were three men in the back at the time it appeared.

Q Who had been driving it? A Little Joe Juliano drove it.

Q Then what happened after that, after you saw that car what did you do? A The car stopped and I was called over. I got out of the Hudson and went to the Pierce Arrow.

Q Now, the men who were in there you had never seen before in your life? A That is right.

Q You did not know them at all? A No.



Q They rode in the back all the time, is that right? A They did.

Q And you got out of the car after the holdup, you say, had taken place, and never saw them again except the two occasions that you mentioned that you saw Barone and Big Joe Juliano, is that right? A Yes.

Q And at no time was any of those three in the front seat? A No.

Q The only look that you got at them then—you did the driving from the time you got in? A I did.

Q The only look you got of those men then was when you stepped into the car to get behind the wheel and at such time as you say you were participating in the holdup, is that right? A Well, I seen them at Clay street, too.

Q You saw them in Clay street, you mean before the holdup took place? A Yes.

Q That is what you testified to on direct, that you waited there at Clay street? A That is it.

Q Now, Boudreau, do you remember down at police headquarters the day that these men were brought in? A I do.

Q Do you remember being in the telephone booth with a mask on there? A I do.

Q So you were the man in the telephone booth with the mask on, were you? A Yes.

Q On that day Captain Brex and some detectives were there? A They were.

Q And the four men or the three men—and the four defendants in this case were brought into the detectives' room at police headquarters? A They were brought in, yes.

Q While you hid in a 'phone booth with a mask over your face to get a look at them? A I asked for the mask.

Q You asked for the mask? A Yes.

Q But you were put in the phone booth there? A I was.

Q You were concealed in there? A No, sir, the door was open.

Q You were behind the door? A I was not.

Q And with this mask on—you had holes in it? A I did.

Q Then was the first time you saw those men at headquarters, wasn't it? A Headquarters, yes.

Q Later on you picked them out in an open room, didn't you? A I picked the pictures before.

Q You picked the pictures before? A Yes, and told them about them.

Q All right. You picked pictures before. Remember that. But later on, in an open room you picked these men out, didn't you? A Yes.

Q But that was not until after the police had given you a look at them for several minutes while you were concealed in a 'phone booth, concealed behind a mask?

Recess from 1 to 2 P. M.

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AFTER RECESS.

Trial continued pursuant to adjournment.

Present, counsel as before stated.

ROBERT BOUDREAU resumes the stand.

*Cross examination* (continued) by Mr. McGeehan.

Q (Last question read.) Is that right? A Right.



Q Now, these pictures that you picked out before you ever saw them even from the 'phone booth, did you pick them out by these pictures? A I did.

Q So the police had in their possession some pictures of these men, is that right? A After the statement.

Q They had them before you went into the 'phone booth, didn't they? A No, sir, not before, no, sir.

Q You are sure of that? A Yes, sir.

Q Didn't you swear in the statement read just now by the stenographer that you were not in the 'phone booth until after you had picked them out by pictures before that? A No, I don't think so.

Q Did you answer that? A I answered no.

Q You didn't say that? A Not that I recall.

Q You swear now that you did not say what I just quoted, just before the noon recess? A I don't recall it.

Q Did say before recess, in the last question that you answered and which was read here just now by the stenographer, that you picked them out or looked at them from a mask in a 'phone booth, after you had previously picked out their pictures, that was a lie, wasn't it? A I don't recall that.

Q If you said that it was not true, was it? A I don't recall saying it.

Q If you did say it, it was not true, was it? A I don't recall it.

Q Now, will you please answer that question. You don't recall whether you said it or not, you said it three times. If you did say it, it was not true, was it? A Certainly, if I said it it was true.

Mr. Fisch: Did not say what?

Q If you did say, before recess, that you had picked them out by their pictures before you ever went to the 'phone booth, that was not so, then, was it? A I don't quite get just what you mean.

Q You speak English pretty well, don't you? A Yes, sir.

Q Just listen to that question read by the stenographer, please. (Last question read as follows: "If you did say before recess that you picked them out by their pictures before you ever went to the 'phone booth, that was not so, then, was it?") A It was so.

Q That was so? A If I said it, yes, sir.

Q If you said it it was so, and if you didn't say it then what you said since recess isn't so, is that right? A That's right.

Q Now, you know that you have sworn both ways on that subject, don't you? A No.

Q What do you say now as to whether you picked them out by their pictures before you were given a look at them from that 'phone booth? A I can't just remember just what it was there.

Q How? A I can't just remember that.

Q Whether you did or not now? A Yes, sir.

Q So when you said a little while ago, since recess, that you did pick them out from a 'phone booth or looked at them from a 'phone booth before you ever saw any pictures, then you are saying something you really don't remember? A I don't remember that.

Q Now, you want to say now that you don't remember whether you saw the pictures of them before you saw them under that mask, when you were behind the mask, or after, do you, that is what you want to say now? A Yes, sir.



Q Were you talked to this noon time about the case by anyone? A I was not.

Q Who were you with, who had charge of you? A I was with the detectives.

Q Were they talking about the testimony you gave this morning? A They did not.

Q Not a word about it? A Not a word.

Q No one questioned you about it? A No, sir.

Q Now, after you were in the 'phone booth that day about a half hour after then you were brought into Captain Brex's office? A I was.

Q And there were the four men? A There were.

Q And then you were brought in without any mask on, without hiding in a 'phone booth, and you were asked whether you could pick the men out? A I was.

Q And you were asked if you could name them? A I was.

Q And you did pick them out and name them? A I did.

Q But twenty minutes before that you had been given a good look at them from a 'phone booth with a mask on, hadn't you? A Yes.

Q And when you were looking at them from that 'phone booth—that is a box with a door on it? A Yes.

Q In the detective's room at police headquarters? A Yes.

Q And you were in there? A I was.

Q And this mask was on you? A It was.

Q And the police brought the four men in? A They did.

Q Alone, I mean, with no other outsiders? A Yes.

Q They told them, "Now, stand facing this way, now, turn around and face over toward that wall." A They did.

Q And they were facing you from the front? A They were.

Q And they were standing with their sides to you? A They were not.

Q Were they standing with their backs to you? A No.

Q Just with their faces? A Just with their faces.

Q Did you see the police make them move so you could get a better look? A No.

Q But you heard the police tell them to turn around over to the wall and the 'phone box was against that, wasn't it? A Yes.

Q And you looked at them then carefully? A I did.

Q And that is how you were able half an hour later to identify these men in the office and call them by name, isn't it? A No, sir. I already had made my statement.

Q You had made a statement containing names, hadn't you? A Yes.

Q But you did not know whether you would know the names of the men whose names you used to the police, did you? A I knew them, yes.

Q And you used those names because you were asked by the police whether they were not the men with you and if you said they were you would save your neck, is that right? A No.

Q Do you remember after you were given that look in that box with the mask on that the men were told to turn the other way and that then you were sneaked out of the box and out of the room? A No, I don't remember that.



Q You do not deny that that happened? A Yes.

Q You deny that that occurred? A Yes.

Q Did you leave that box while the men were looking toward it? A I did not see the men when I left the box.

Q Where were they? A They were in front of me.

Q You could see them? A Yes, but I didn't notice which way they were turning.

Q Well, try and remember if you did not hear them give an about face to look the other way while you went out of that booth and out of that room? A No.

Q Did you tell the police you would know them any time you saw them before they put you in that booth and behind the mask? A Yes, sir.

Q Do you know why they hid you there to give that secret view of these men before you were brought to try and identify them? A Because I asked to be.

Q And you asked to be because you did not know whether you would know them or not? A No.

Q Did the police talk to you between the time you got that view of the men from the 'phone booth and the time you were brought before them and asked are these the men and you said yes and you were told to pick them out, did they talk to you? A No.

Q Do you mean to say the police did not talk to you before the police brought you in again? A No, not a word.

Q Didn't they ask you— A Well, one asked me if I would pick them out of the line.

Q And what did you say? A I said I didn't like the line.

Q There was no line the first time you were brought in there? A There was.

Q Was there anyone else in the line with them the second time you came in? A There was.

Q That was half an hour after the mask and 'phone booth episode? A About ten or fifteen minutes.

Q Then other people were lined up with them? A They were.

Q And you were the only one asked to pick them out at that time? A At that time, yes.

Q So they were being given a lineup with other people? A They were.

Q And you were to go in and see if you could pick these men out from the lineup of people, is that right? A Yes.

Q About twenty minutes before you were given a good look at them? A About ten or fifteen minutes.

Q Then you had no trouble picking them out? A I didn't.

Q Didn't the police tell you "You go in that booth and hide in there and we will have them in that other room and you take a good look at them, they are the men whose names you have given to us, look them over and later we will give them a lineup and you will be sure to pick them out? A No.

Q And didn't they tell you the names of those different men in that fifteen minutes or half an hour so you could pick them out from an honest lineup? A They didn't.

Q And out of that identification has grown your testimony, hasn't it? A Out of what?

Q Since then you have identified those men, haven't you? A Yes.



Q What kind of pictures were you shown of those men? A I was shown photos, small photographs.

Q Individual photos of each one? A Yes.

Q Rogues Gallery pictures? A I couldn't say that they were.

Q Well, you know what a Rogues Gallery picture is? A No.

Q You don't? A No.

Q Well, did they have a front and side face on it? A They did.

Q What did they show, those pictures to you for whenever they did show them, to ask if you knew those men? A I don't get just what you mean.

Q When they handed that to you, did they hand them to you to ask you if you knew them or not? A Yes, they asked me if I knew them.

Q You know that must have been before you picked out the very men themselves in this fair lineup, it must have been before? A No, sir.

Q Do you mean to say that after you identified them in this lineup that later on they would hand you pictures and ask you if you knew those men or could recognize them? A They did.

Q Did anyone say to you, this noontime, to say the police had no pictures of these men before you picked them out? A They did not.

Q Now, to get back to your story of what you say happened at the Reid place, Boudreau. You said that when you got down to the scene of the crime or near it, you stopped your car on Clay street about opposite the center of Mt. Pleasant avenue, is that right? A About that, yes, sir.

Q Somewhere around there (indicating on map)? A About there, yes.

Q And you said facing toward Kearny, didn't you? A I did.

Q Did you stay in the car? A I did.

Q Did you stay in the car up to the time that the robbery took place? A I did.

Q You never got out of the car? A No, sir.

Q You are positive of that? A Positive.

Q And you are positive, therefore, that you were not at any time standing over on the corner, the northwest corner of Broad street or Clay street and Mt. Pleasant avenue? A I was not.

Q That you are certain of? A Positive.

Q And you are certain that at no time were you on Mt. Pleasant avenue or Clay street, on the street yourself? A Positive.

Q Always right behind the wheel? A Yes, sir.

Q Now, I understood you to say the only men that did get out of the car at any time were Chris Barone and Ruff? A Positively.

Q None of the others at any time left from the time that you got in up around Orange street up to the time you left them, as you testified, up around Belleville avenue, is that right? A That's right, none touched the street.

Q And that you are also sure of? A Positive.

The Court: You say that none touched the street?

The Witness: They did not get on the street. There was one on the running board later on.

Q Now, you say that the car stood there and that at some time or another some car wanted you to move? A Yes, sir.



Q And, as I understand your testimony, you say that Young Joe Juliano then said, "Go to Hell, I will move when I get ready." A Right.

Q You did not say anything at all? A I did not.

Q And none of the others said anything at all? A No, sir.

Q But Young Joe Juliano said that? A He did.

Q Where did he shout that from? A From the front seat.

Q And where was the other car, behind you? A Behind.

Q What did the other car do, stay where it was behind you or drive away? A I don't know just what that car done.

Q You did not get a look at whoever it was, did you? A I did not see the fellow, no.

Q Where did he yell it from, from behind the car? A From behind.

Q So that that car remained stationary from the time you got there up to the time you testified you came up Mt. Pleasant avenue? A No, sir, we moved ahead.

Q Oh, did you move ahead? A We did.

Q When the argument occurred, as you testified, between someone that yelled from the car behind, and as you testified Young Joe Juliano? A Yes, sir.

Q Yes, sir—well, I thought you said before that he said, "'Go to Hell, I will move when I get ready.' We did not move away then, but later we moved to in front of the Reid Ice Cream Company." That is your direct testimony, isn't that? A I didn't say we didn't move.

Q Do you deny that you testified in your direct examination here in court in those words,

"We did not move then." A We did not go off of Clay street, no, but we moved a few feet to let this fellow go where he wanted to go.

Q Didn't you just say on your direct, "Joe gave him an argument and said, 'Go to Hell, I will move when I get ready.' We did not move away, then later on we drove in front of the Reid Ice Cream Company." Did you testify to that on your direct examination? A No, sir.

Q You did not? A No, sir.

Q You are sure of that? A Positive.

Q Now, you did move for that party, whoever it was, a few feet? A We did.

Q How was it that somebody said, "Go to Hell, I will move when I am ready?" A That is what he said.

Q He said that, but you moved? A We moved, yes, sir.

Q And that is all you ever saw of that party again, is that right? A That is all I ever seen of the party.

Q And that was when you were standing still on Clay street opposite the end of Mt. Pleasant avenue? A That's right.

Q How many feet did you move when you moved forward? A About a car length, maybe more.

Q And then you stayed there from then on? A No, sir, we went back again afterwards.

Q You moved back again? A Yes, sir.

Q How far did you move back when you moved? A About to the same place where we were.

Q The same distance? A About that.

Q There is a factory of some kind situated on Clay street, is there not, along here? A Yes, sir, there is a building along there.



Q As a matter of fact, weren't you somewhere further down the street than opposite the center of Mt. Pleasant avenue? A That is when I pulled up.

Q Isn't it a fact that you were at a point 100 feet down below a point opposite Mt. Pleasant avenue? A No, sir.

Q Never more than ten feet beyond the center? A It might have been more than ten.

Q But not more than 25? A No, sir.

Q About that? A It might have been.

Q Now, when you sat there, according to your testimony, there was alongside of you Young Joe Juliano and one of the three men who you say had gotten in uptown? A That's right.

Q And that man was Big Joe Juliano, is that right? A Yes, sir.

Q You said in your direct testimony, by the way, that you have learned since that Ruff's name is Capozzi, or Cappazzi, as you pronounced it? A Yes, sir.

Q Who did you learn that from? A I read it.

Q In the newspapers? A Yes, sir.

Q Have you been given newspapers to read all the time you have been held? A No, sir, I happened to get ahold of one one day.

Q Just one day you got ahold of one? A Yes, sir.

Q And it happened to have his name in it, is that right? A Yes, sir.

Q So the police have never mentioned anybody's name at all? A No, they did not exactly mention his name, they said, "Kid Ruff."

Q And you learned the name Capozzi from the newspapers only? A That is where I saw it first.

Q Never in the month or more that you had been held did they mention the name Capozzi to you, not one of the officers? A Not that I recall. No, sir.

Q The men never asked you the name of Capozzi, the policemen, whether you knew a man named Capozzi when they questioned you first? A They did not.

Q And I suppose the name Capozzi is not in any of the written statements you have signed for the police? A Not to my knowledge.

Q Did you read them before you signed them? A Not on my statement.

Q Did you read your statements before you signed them? A I did.

Q Were both of them long? You say you signed two different statements. Were both of them long? A Yes.

Q Were both of them a pretty complete statement of what you had to say to the police; were they both complete statements of what you know? A Yes.

Q When was the first one signed? A That I could not tell you; about a day and a half.

Q After you were arrested? A After I was arrested.

Q How long after that was the next one signed?

Mr. Bigelow: It seems to me this is not proper cross examination. It is immaterial.

The Court: Sustain the objection.

Mr. McGeehan: May I be heard?

The Court: I see no point.

Mr. McGeehan: The point is that this witness has made prior contradictory statements of what he made here I may ask him



that question on cross examination to affect his credibility. This is laying the foundation for that.

The Court: These statements are not in evidence?

Mr. McGeehan: I still am entitled to ask him, without putting any statement in evidence; no statement to contradict him is in evidence. My case is not open yet.

The Court: But I take it now you are laying the foundation to impeach?

Mr. McGeehan: I have stated that I asked this question to affect the credibility of the witness as going to an alleged prior inconsistent statement.

The Court: Are you asking the question for the purpose of laying a foundation to impeach him?

Mr. McGeehan: I decline to state that.

The Court: I overrule the question.

Defendants' counsel pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed accordingly.

EDWIN C. CAFFREY.

(SEAL) Judge.

Q Two statements you made before and which you signed differ from each other and differ from the testimony given by you at this trial?

Mr. Bigelow: I object.

The Court: Sustained.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe and Louis Capozzi,

pray an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY.
(SEAL) Judge.

Q The two statements that you previously signed differed from each other, did they not?

Mr. Bigelow: I object.

The Court: I ask you are you laying a foundation to contradict this man by this statement?

Mr. McGeehan: I am cross examining him and this I am doing for the purpose of affecting his credibility.

The Court: Then I have no assurance that in the event of his answer that you are going to contradict him?

Mr. McGeehan: I refuse to answer the Court's question.

The Court: Objection sustained.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY.
(SEAL) Judge.

Mr. Kavanagh: Do I understand these exceptions go to the four of them or just the three?

The Court: Why, you can have an exception, if you want it.



Let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY.
(SEAL) Judge.

Q Now, you have said that some signal was given. Who was that given by? A By Chris Barone.

Q And at that time did you know which one was Chris Barone and which was Joe Juliano and which was—well, you know young Joe Juliano? A I did.

Q And which was Ruff? A I did.

Q How did you know them so well? A I got the introduction to them coming from Clifton avenue on Park avenue.

Q Well, you were driving the car? A I was.

Q And those men were in the back and you were facing away from them? A I was.

Q So you did not get very much time to form a very clear idea of just who was who? A Well, I looked at them.

Q Oh, you looked at them when you got in behind the wheel and they were in the car? A Yes.

Q And that was the only look you got of them? A No.

Q Well, you say that you saw them when you were standing on Clay street? A I looked at them before we reached Clay street.

Q By turning around in the car? A Yes.

Q While you were going along? A Yes.

Q You did not get a very good look at them then? A Well, I looked at them.

Q What did you do that for? A Little Joe told me who they were by name.

Q And then you said hello? A No, I didn't say nothing. I just turned around and looked.

Q You did not hit anything while you were going along there? A No.

Q And that was just a glance? A Well, it was practically a glance.

Q And when you got in the car and the time you looked around in the car and when you say you were waiting, as you say, with the defendants on Clay street that was the only time you had seen them at all except for later on you saw two of them by accident; isn't that right? A Yes.

Q Now, how were you able to name each one of those men in police headquarters by line-ups after you were in the 'phone booth a little while before; how did you know their names so well? A Because I was with them.

Q The police did not help you at all in telling you which was which? A They didn't.

Q No? A No.

Q Now, when you waited, as you say, at Clay street, the three of you remained in the car; where did those other men go to? A They crossed the street, toward the barroom.

Q A barber? A A saloon, a barroom.

Q Now, there is a barroom right on the corner, indicating which would be the northeast corner of Mt. Pleasant avenue and Clay street; is that right? A Right.

Q They stayed in there until the signal was given? A They did not go in there.

Q Oh, they stood at the step there? A They walked across toward there, from the car toward there.

Q From the car over to the corner where the barroom is, but not in the barroom; is that right? A Right.



Q Did they stay there all the time until the crime was committed? A They did not.

Q Where did they go to from there? A They walked toward Ogden street.

Q Then after they first went over there did they stand there at all? A They walked toward Ogden.

Q They did not stand there at all? A No.

Q But walked toward Ogden street? A Right.

Q How far did they go? A As far as the corner on Clay.

Q Now, did they remain at Ogden street when you say you saw them go down there? A About two or three minutes.

Q What time in the morning was it when you arrived at this corner? A That I am not certain about.

Q About what time? A Around ten minutes of nine, about.

Q And about what time—how long after that did the hold-up take place? A A little while after.

Q I think I asked you about how long you were there from the time you arrived until the time the hold-up occurred? A About an hour; I am not positive.

Q About an hour? A About.

Q Now, during that hour did those two men remain there around the barroom? A No; they walked back and forth.

Q In that one block? A Well, they crossed across the street.

Q Where, to your car? A No, to the other side of Mt. Pleasant avenue.

Q How often did they cross in that direction? A About two or three times.

Q Where were they standing most of the time? A In between Ogden street and Mt. Pleasant avenue.

Q Then nearly all of that hour the men were between here and there, between Mt. Pleasant avenue and Ogden street, either walking up and down, waiting here, except a couple of times they crossed over there? A Right.

Q And when they did they would walk right back? A They would.

Q Right away? A No. They would stand on that corner for a while and then walk back.

Q But most of that time they were in the block? A Right.

Q Where were these men when you say they gave you a signal? A They were across by the gasoline station.

Q And that is on the barroom corner? A No, the other corner.

Q That was at the gasoline station; is that right? A That is right.

Q Did you see anyone working around the gasoline station there? A Yes, the people that runs the station.

Q Did you tell us before what kind of a signal you were given? What was the signal? A The signal was a handkerchief.

Q A handkerchief? A Right.

Q What was done with the handkerchief? A It was waved.

Q How was it waved, up in the air? A No.

Q Where? A Pulled out of his pocket and blew his nose.

Q I thought you said a moment ago it was waved? A I call it waved.

Q How many of them pulled handkerchiefs, one or both? A One.



Q And waved them? A Yes.

Q At that time you were only about forty feet across the street? A I was.

Q You mean to say that signal was given by handkerchiefs instead of saying "This way" (indicating)? A It was given by a handkerchief.

Q And you say that that signal called for you to move? A For me to pull up to the place.

Q Fast or slow? A In second speed.

Q Fast or slow? A Fast.

Q Well, did you swing around in second speed fast then when you got their signal? A No, I started slow.

Q And then increased your speed? A Increased the speed.

Q But did you try to go fast? A Well, not exactly; I could not very well.

Q What kind of a car did you say this was? A A Pierce-Arrow.

Q By the way, did you have a talk with Jeanette Sorenson and Bielke and a girl named Lillian two or three nights before you were arrested?

Mr. Bigelow: Your Honor, I object. That is the third or perhaps the fourth time Mr. McGeehan has gone through that.

(Question withdrawn.)

Q Did you remember an occasion when you were with those people I have just mentioned and saying that you were on the Reid job and that you had a Cadillac car? A I did not.

Q That you pushed Condit off the running board and that you had the car painted somewhere right after the murder; did you say that

to those friends of yours during the week and perhaps a few days before your arrest? A No, sir.

Q Did you talk about the Reid job to them? A I don't remember that.

Q You don't remember that? A No, sir.

Q You take morphine, don't you? A No, sir.

Q What? A No, sir.

Q Do you remember writing a letter to the Sorenson girl—you wrote her a lot of letters, didn't you? A Some, yes.

Q Do you remember writing a letter to her saying that you were taking too much dope? A No, sir.

Q You swear you did not, in your own handwriting, write such a letter? A I don't remember writing such letters.

Q You say now you don't remember that? A No, sir.

Q Do you remember writing her that your real name was Gordon and that you wanted her to marry you and that you were taking too much dope, and sending that letter to her house? A I don't remember that; I lived there.

Q Yes, but you were not living there when you were out West? A I was not.

Q Do you remember writing her while you were out West? A I did not.

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

Q Or you don't remember? A I did not write no letter.

Q No letter at all? A No, sir.

Q You haven't written her at all; is that right? A No, sir.

Q No letters to her? A I have, but not from out West.

Q But you wrote her before you went West? A Yes, sir.



Q Did you write her what I asked you, before you went West? A I did not.

Q You are sure of that? A Positive.

Q Is that Jeanette Sorenson (indicating a woman in the audience)? A It is.

Q Do you remember being in a spaghetti house with her on Washington avenue in Nutley owned by a man named Marone? A I do.

Q Do you remember being with this girl, saying that you were nervous, that you were going out to take a couple of shots of dope and went into the toilet and came out and said you had taken some morphine? A I did not.

Q You deny that? A I do.

Q Now, you told us that you started out to drive toward the Reid place, I mean when you got that signal. What did the other men do that were across the street who gave you, as you say, that signal? A They started to walk toward the plant.

Q Walk or run? A They started with a walk and followed with a run.

Q Now, they started with a walk and followed with a run? A Yes, sir.

Q Now, at that time you say you saw a Chevrolet car standing in front of the Reid Company? A Yes, sir.

Q That was on what might be called the sidewalk; is that right? A That's right

Q So that the entire width of the street was clear there? A Yes, sir.

Q Now, you testified that you went alongside of that; is that right? A That's right.

Q You did not go in front of it? A No, sir.

Q You went alongside of it? A Alongside of it.

Q If you said on your direct examination that you were in front of it, you made a mistake; is that right? A I did not say it.

Q Did you come close alongside of it? A About four feet.

Q Four feet? A About that.

Q How close was that to the porch, the Chevrolet right up against the porch? A Well, it was a little distance away.

Q Well, is wasn't more than eight feet, was it? A Oh, yes, more than that.

Q How far? A About five or six feet.

Q And yet it was up on the sidewalk? A That car was; yes, sir.

Q Well, I am speaking of that car; how far was that car, the Chevrolet, from the porch? A About four or five feet, probably more.

Q Now, you know as a matter of fact that the distance from the curb, or the part that is off of the street, is only a total of about ten feet, don't you? A I do not.

Q A little bit more? A I can't say.

Q Well, how far do you think it is? A I have no idea how far it is.

Q When your car pulled alongside of it, it was partly on that sidewalk, wasn't it? A It was not.

Q How many feet from the edge of the sidewalk was the Chevrolet? A It was about a foot in from the sidewalk.

The Court: What is that—do you mean the entire car?

Witness: The Chevrolet car.

Q I will reframe the question. You mean that the outer part—nearest to the street of the



Chevrolet was about a foot from the edge of the sidewalk and on all the sidewalk? A Yes, sir.

Q And your car, then, you say, was about four feet on from that? A About four feet.

Q It might have been three? A No.

Q It might have been five? A It could have been, yes, sir.

Q And that that made your car about three feet from the edge of the curb line; is that right? A That's right.

Q Now, when you got there, did you get there before the two men? A We did.

Q You got there before them? A We did.

Q Do you know where they were when you arrived alongside that other car? A They were running alongside the Pierce-Arrow.

Q Running alongside of it? A They were.

Q To the rear of it or toward the front of it? A About midships of it.

Q And did they have guns drawn then, did you see? A I couldn't tell you whether they had guns drawn at that time or not.

Q When did you see they had guns drawn? A As they came around the front of the car.

Q Were they on the right or left side of your car as they ran, as you say? A They were on the left side of the car.

Q And they ran around the front of your car? A They did.

Q And then what did you see happen after that? A I saw them coming around the front.

Q Where did they go? A They went toward the Chevrolet around on my right.

Q Well, they went between the two cars; is that right? A Between the two cars, right.

Q And to get between them it would be closer to each of them, wouldn't it; that is, they only

had room enough to go through there, didn't they, and they would have to be pretty close to each of the cars that way to go through? A Well, there was about four or five feet.

Q Yes, but if they were straight in the middle they would only be a foot on each side, wouldn't they? A I don't know.

Q You know they were close between, don't you? A I don't know how close they were.

Q Was your car parked right alongside of the Chevrolet or was it further north or further south of it? A My right fender was opposite the right fender.

Q Your right front fender? A No, the rear.

Q That is, your car was right alongside of the Chevrolet? A It was.

Q Because I think you testified that the Chevrolet was facing down toward Clay street? A That's right.

Q And your car was facing the other way? A That's right.

Q And they were right alongside of it? A They were.

Q Now, that made the men, according to your story, go between the two cars? A That's right.

Q Now, you were on the left-hand side of the car? A I was.

Q Young Joe Juliano, you say, was on the right? A That's right.

Q Big Joe Juliano, you say, was in the rear? A That's right.

Q You say young Joe Juliano had a gun? A He did.

Q Where did you see that and when? A In his hand.

Q In his hand at the time you were there? A At the time we started to pull up toward the scene.



Q And did you have a gun in your hand? A I did not.

Q Did you see whether the other men had the guns in their hands? A I didn't.

Q At no time? A Not the man in the back, no.

Q You heard my question. Did you see whether the other men had guns in their hands and you said "I didn't," didn't you just then? A I thought you meant the man in the back seat.

Q What made you think when I used plural of men and plural of gun? Did you think you said differently on your direct? Is that why you changed it? A Why, I didn't quite understand it.

Q Well, then, what happened? You saw those men come between the two cars. What did you see next, or didn't you look to see what happened? A I saw the boy and Mr. Condit come downstairs.

Q You saw the boy and Mr. Condit? A Yes.

Q How long were you there before they came down or were they coming down when you arrived there? A The boy was coming down the steps as we arrived there.

Q And did you see Mr. Condit coming down the stairs? A He followed the little boy.

Q Were they both on their way down when you were arriving there; when did they go out after you got there? A Mr. Condit came out after we got there. The little boy was on the way out.

Q Before. Was there anyone in that Chevrolet car? A No.

Q Did you see that Chevrolet arrive there? A I did not.

Q Was it there during the length of time you were waiting, do you know, on Clay street there? A I did not notice it.

Q Do you mean to say you waited an hour there opposite the center of the street 150 to 175 feet approximately with a view of that place and knew that you were going to rob it and you did not notice whether the car was there or not in all that time? A I noticed the car, but I did not know that that was the car we were going to.

Q Now, do you remember testifying in the last answer that you gave me to the last question that I put to you that you did not see whether the car or a car was there or not? A There were numerous cars along there, not only one.

Q My question is do you remember testifying to what I asked you, the question before the last, do you remember saying that? I will repeat it for you. Do you remember testifying about three questions back now, when I asked you was that car standing there, the Chevrolet, during the hour or more that you say you waited on Clay street and you say you don't know, you didn't see it? A Yes, I remember that.

Q And you did not see it arrive, did you? A No, I do not remember seeing it arrive.

Q And didn't you look to see whether it was there or a car was there or not? A I didn't. There was so many cars I didn't know which was which.

Q Were there many cars clustered around that place? A There was.

Q You are sure of that? A Positive.

Q All around in front of the Reid place? A Not all in front, no.

Q Were there some within fifty feet either way of the Chevrolet at the time that you say you



drove up alongside of it? A I could not judge the distance.

Q There were no cars near that door except the Chevrolet when you got there, then, was there?

The Court: What do you mean, when he got there?

Mr. McGeehan: Why, when he got to the door of the place, as he testified. I meant that and not on Clay street.

Mr. Fisch: On Clay street or Mt. Pleasant avenue?

Mr. McGeehan: Not on Clay street, but on Mt. Pleasant avenue. I will reframe the question.

Q When you got in front of the Reid place where you say the hold-up occurred there were no other cars that you remember fifty feet either way from that Chevrolet, was there? A Well, the distance I could not say.

Q Well, I mean roughly, was there any near to forty or sixty feet? A Yes, there were cars across the street.

Q Now, do you remember the cars across the street? A I do.

Q What kind of a car or cars? A Mack truck, Fords, other cars.

Q What other kind, Mack truck and Ford; what other kind? A I didn't notice just what make they were; big cars, some were small.

Q A lot of them? You have mentioned four. A There might have been, yes.

Q Well, then, there was a line of cars right along there? A I would not say a line.

Q Well, a Mack truck, a Ford, some other cars; that is at least four? A Right.

Q And they were end to end along the curb? A No, sir.

Q You testified that a Mack truck or a truck on a picture was sticking out into the street; is that right? A I did.

Q Was that right across the street from the place where your car was? A No, it was up further.

Q How far? A Well, the distance I could not judge.

Q Well, approximately. You are a pretty good judge of distance? A No, I am not.

Q That one was approximately how far up from where the Chevrolet was, as you stated? A About two car lengths, or three.

Q And you say in order to get past there you had to drive on the sidewalk; is that right? A Right.

Q Now, you do not mean to tell us, do you, that there is not room enough left as the picture shows it, Exhibit S. 11, to pass there with a car? A I do.

Q You are sure of that? A Positive.

Q So you remember going up on the sidewalk and going away? A I do.

Q Now, when you stopped you told us—now, about the men coming in between the car and you say the boy, as you testified, come out after you got there and saw Mr. Condit come out after the boy; that is right, is it? A The boy was coming out before we got there.

Q Oh, he was coming out before you got there? A Yes.

Q How far were you from where he was when you first saw him? A Just across Clay street a little bit; just pulled into Mt. Pleasant avenue.



Q And then the men were running along the left-hand side of your car? A They were.

Q It was a Pierce-Arrow? A It was.

Q A high body? A High body.

Q And a closed body? A Closed.

Q So that up to the time your car stopped you say these men were along the left side of it, close to it? A That is right.

Q And when your car stopped they went around in between the two cars? A They did.

Q Now, how soon after that did you hear shots? A About—very shortly.

Q Well, describe it with your hands—one clap to show when your car stopped and another clap to indicate when the first shot occurred. A It just had stopped when they came around the front.

Q Then did the shots ring out immediately? A No. The shots happened about as they passed the front end of me.

Q In other words, as soon as they got in between there you heard some shots? A I heard one shot.

Q Then were there any more shots fired? A There were.

Q You testified on direct that there were two? A Three.

Q When did the other ring out? A One rang out shortly after the first one and the other rang out as we left.

Q Now, will you give me, with your hands, the time between those shots? I do not want to ask you a question as to seconds or fractions of seconds, because none of us can judge that time, but give it to us with your hands.

The Court: Indicate with your hands the first shot.

(Witness claps his hands.)

The Court: Now.

(Witness clap his hands.)

Witness: That is about the way they came.

Q The first one was just as quick as they got apast the front of your car and the other one was that length of time after? A They had gone by the front of the car.

Q So you say you did not see those shots fired? A I did not see them fired.

Q You do not know who fired them? A I do not know who fired them.

Q You do not know who or whether anyone was hit? A I do not.

Q You did not know it even when you were on your way away from the scene of the crime; is that right? A Right.

Q What way were you looking when all this took place? A I had to look ahead.

Q You had to look ahead? A I did.

Q And never once even turned your head to the right when you heard shots ring out? A I did not, not at that time.

Q You did not see any man shot between the two cars? A I did not see nobody shot.

Q Did you see anyone fall between the two cars? A I did not.

Q The prosecutor has referred to a bag, or two bags, in the opening. Did you see any bags grabbed by anyone or put into the car? A I did.

Q Who did you see grab bags? A I didn't see nobody grab it.

Q You did not see them grab it? A Not grab the bag.



Q You saw a bag or bags in the car? A I saw a bag come in the car.

Q Not two? A I didn't see two.

Q When did you see that bag? A I seen that bag shortly after the first shot was fired.

Q Where did you see it? A As Chris Barone put it in the back of the car.

Q As who put it in? A Chris Barone.

Q Now, if you looked between the first and second shot, which took place so quickly after each other, you have demonstrated, you were not looking ahead when those different shots were fired, were you? A I glanced sideways.

Q And if you looked between, in that interval of time, such as you have described, you saw a bag being put into the car, you could not see whether anyone had been shot, you did not see the next shot that was fired? A I did not.

Q You were looking ahead again—is that right? A I was.

Q Then you drove away; is that right? A I did.

Q Immediately? A I did.

Q The whole thing, then, didn't take more than a few seconds, did it? A I don't imagine it did; I didn't time it.

Q When you looked, and you say you saw, which one did you say you saw putting the bag in the car? A Chris.

Q You say you looked and you saw Barone putting a bag into the car; did you see where the other defendant, Ruff, was then? A I did not see him at that time, no.

Q Didn't see him at that time at all? A No, sir.

Q Were the doors on your car open or closed? A They were open.

Q How was that bag put into the car? A I can't tell you how it was put in.

Q Well, you say you saw Barone put it in, didn't you? A I saw him throw the bag in.

Q Did he throw that in from the street where he was standing, was he standing in the street when that happened? A He was.

Q It wasn't pulled into the car, then, by anyone reaching out, was it? A No, sir.

Q After that happened, after the last shot was fired, the second shot was fired, did you start off? A I was told to keep her in second.

Q And moving? A And start moving.

Q Then you were not moving when the shots were fired? A No, sir.

Q You started afterward? A I was not moving when the shot was fired; I was standing at one of the shots.

Q The last one? A Yes, sir.

Q Do you know where that one was fired from? A From the back seat.

Q Do you know who fired it? A I don't know.

Q Were any windows broken in that car after it was over? A There was not.

Q You say one was fired from the back seat; did you see it fired? A I did not.

Q Do you know who fired it? A I do not.

Q Could you hear the explosion of a gun? A I did.

Q Could you see any flash? A I did not.

Q Do you know which window it was fired out of or whether out of the back of the car? A I do not.

Q You just heard the report? A That's all.

Q Then you drove, I think you said, north on Mt. Pleasant avenue; is that right? A I did.



Q Fast or slow? A Well, I picked up speed.

Q Just picked up gradually, I suppose? A Yes, sir.

Q Do you mean to say you drove away from there without going as fast as you could make your automobile go? A I could not speed off; this truck was blocking me.

Q The men got into the car right after those shots, didn't they? A They did.

Q Or were they in before the last shot was fired? A Yes, there were three shots fired.

Q Well, the last shot, you said, was fired from the car. Were all the men in the car at that time? A They were.

Q Where was your automobile at the time that third shot was fired? A It had started away from the plant.

Q How many feet had it gone? A Well, about fifteen or twenty, probably more.

Q Then you had not yet gotten to the truck that you say was facing across the street? A I was just about to go on the curb.

Q Did you have to go all the way on the sidewalk to get past that? A Just one wheel; the rear and front one side.

Q Then did you step away? A I did.

Q How many blocks did you go before you turned? A I went to Gouverneur street.

Q Where did you get out of that car? A I got out at Third and Belleville avenue.

Q Did that car stop? A It did not.

Q You say you jumped out without stopping the car? A I did.

Q And you were behind the wheel? A I was.

Q What door did you come out of? A The left-hand side door.

Q You did not change places at the wheel before getting out of the car? A I slid out and he slid in.

Q Slid out of the car while it was going, and he slid in; is that right? A Yes, sir.

Q Up to that time your car was not going very fast, was it? A It had.

Q You hadn't taken your hands off the wheel at all? A No, sir.

Q Now, you said something about being told to go back to the Reid plant to see if anyone would recognize them, and that little Joe Juliano told you that; is that right? A That's right.

Q Did you go back there? A I did not.

Q Where did you go? A I went home.

Q You went home? A Yes.

Q Did you stay home all day? A No, I went out around one, half-past one.

Q You went out around half-past one or one? Where did you go? A I went over to Broad street.

Q And you never saw the defendants then except the two times you speak of, after that hold-up, did you, that is the defendants Big Joe Juliano, Barone and Capozzi, or Ruff? A No, sir.

Q You did not see them that day again, did you? A No, sir.

Q You didn't go near the place where you said you had made an appointment to meet them later, did you? A No, sir.

Q Hadn't ever been in their company again that day or any other day, had you? A No, sir, not in their company.

Q Where did you get paid, or where did you get any money out of this? A I didn't get any money out it.



Q Oh, you did not get any money out of this at all? A I did not.

Q You did not even go after any money? A I asked for it; yes, sir.

Q Oh, when did you ask for it? A About a week after the stick-up.

Q Who did you ask? A Little Joe Juliano.

Q As a matter of fact, you just met him because you were living at the same place with him later and knew him after this occurred? A He wasn't living with us at that time.

Q You just knew him from seeing him before? A From being with him; yes, sir.

Q Little Joe Juliano? A Yes, sir.

Q As a matter of fact, were you in a lunch room, the lunch room I questioned you about earlier today, around noontime, on the day of the murder, were you? A I was not.

Q Were you in the lunch wagon on Broad street, near Clay, that I spoke of before, around noontime of the day of the murder? A I was not.

Q Did you go back to the Reid plant afterward? A I did not, not then.

Q You did not go anywhere near it? A I did later on.

Q In the afternoon? A No, about a week after, probably more.

Q You have been there since then, too, haven't you? A I have.

Q You were taken by the police to go over your story with them, weren't you? A I was not.

Q Haven't you been there with the police at all? A No, sir.

Q Are you sure that you were not taken to the Reid place about a week after you were arrested in company with a wagon load or two or

three of officers to go over your story there with them? A I was not.

Q You left police headquarters, didn't you? A I did not.

Q What time did you leave the police headquarters? A I did today.

Q No, I mean a week or so after you were arrested, with a lot of officers, didn't you go somewhere outside of police headquarters? A No, sir.

Q You say no? A Yes, sir.

Q You are positive of that? A Positive.

Q Now, do you know a man named Tony Iliario? A I do.

Q Did you see him in the lunch wagon on the 19th of July? A I did not.

Q On Broad street? A I did not.

Q You called a man out of the lunch room the night before you were arrested, didn't you, and talk to him? A I did not.

Q Did you meet Iliario and say to him these words, or words to this effect, "Did you hear that they just stuck the place up around the corner, the Reid place?" A I did not.

Q Sure of that? A Positive.

Q Now, you know Nick Marone, don't you? A I do.

Q Know him pretty well, don't you? A Yes, sir.

Q Gone out with him a good deal, haven't you? A I have been out with him; yes, sir.

Q Out with him on various jobs, haven't you?

Mr. Bigelow: I object to that, to the insinuation.

The Court: I sustain the objection.

Mr. McGeehan: Oh, I think he has answered it.



The Court: Well, I will strike it out, and don't ask any more questions that way.

Q Did Nick Marone have a talk with you while you and he were down at police headquarters? A He did not.

Q He did not have any talk with you at all? A No, sir.

Q Sure of that? A Positive.

Q Didn't he say to you, in talking with you, "You don't know Chris Barone, Big Joe or Ruff, do you?" and you said, "No." Was that conversation had between you two? A No, sir.

Q Did he say to you, "What do you mean, and why are you getting fellows that you don't even know and whom you know are innocent in trouble?" And did you answer this, "All right, I will fix it up above and tell the truth." Did you say that to Marone? A I did not.

Q Did you say something to that effect to him? A I did not.

Q You were arrested the same day as Marone, weren't you? A No, sir.

Q Weren't you and Marone arrested on the same day? A Not to my knowledge; no, sir.

Q You were both down there the same day, weren't you? A I was with Carl Bielke.

Q Well, was Marone there the same day? A I don't remember; I saw him the next day.

Q You saw him there? A Yes, sir.

Q And you chatted with him to some extent, didn't you? A I was on the opposite side of where he was.

Q The opposite side of what? A The cell.

Q But you could talk across the cells? A I did not talk to Nick.

Q But you could, couldn't you? A Yes.

Q Do you mean to say that being able to talk and knowing him well, that you did not talk to him at all? A I did not talk to him, no.

Q You swear that, too? A I will swear it; yes, sir.

Q Now, do you now Mr. Gorman, whom I just spoke to? A I do.

Q Do you remember having a talk with him about two weeks before you were arrested? A I remember talking to him, yes.

Q Do you remember talking about what a dead town Nutley was? A No, I don't.

Q You don't? A No.

Q Do you remember his asking—you lived in Nutley? A I did, at one time.

Q Do you remember his asking whom you knew in Nutley? A No.

Q And asking you whether you knew Chris Barone or Buck Joseph, the brother of Barone, who was a pugilist under the name of Buck Joseph, and do you remember saying no, you didn't know them? A No.

Q Do you deny that you said that to Gorman? A I do.

The Court: What is the purpose of this?

Mr. McGeehan: The purpose is that if two weeks before he was arrested he said that he did not then know the defendant whom he has testified here he did know and committed a crime with months before, it affects the credibility of the witness.

The Court: I was thinking of another name.

Q Now, isn't it a fact, Boudreau, that you were in this robbery and were in it with some men whose names you have not divulged? A No.



Q Did you commit any other hold-up before or after or at any time with these defendants? A No.

Q Never did?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Mr. McGeehan: I think it goes to the credibility—of the weight to be given to his testimony.

The Court: No, it does not. Sustain the objection.

Q Do you know Mande Philips who was paymaster in the Reid Company just before this robbery took place? A I did not.

Q Did you know a man by the name of Philips that was employed by the Reid Ice Cream Company at the time this robbery took place and is still? A No.

Q Do you know a brother by the name of Philips? A No.

Q Do you deny that you went up to the club on Park avenue, the Firestone A. C., with Philips and Pete Rogers? A I do.

Q You do not deny that you know those men? A I do.

Q You do not deny that you know Brown? A I do.

Q You know him well? A Well, about a month.

Q He was a pal of yours? A No, he worked in the restaurant.

Q He took the trip to Providence with you? A No.

Q He took a trip to Chancellor avenue with you, didn't he? A He didn't.

Q Didn't you go one night to Chancellor avenue, one night, with Brown and with George, Brownie, George and you to Chancellor avenue one night? A We didn't.

Q You swear that, do you? A I do.

Q Do you remember when Brownie was arrested? A I do not.

Q Did he work in the same place that you worked? A He did not.

Q Were you with him when he was arrested? A I was not.

Q Or a few minutes before? A I was not.

Q Was George with you to Chancellor avenue? A No.

Q George was a very good friend of yours? A He was.

Q He was the man that went out West with you with the two girls? A He was.

Q Isn't it a fact that some of these—they were pals of yours at the time this Reid job happened? A Who is that?

Q Brownie and George were pals of yours, weren't they? A George was, yes.

Q So was Brownie? A Well, no pal. He worked in the restaurant.

Q Do you know Benjamin Pilsaloto? A I do not.

Q Did you see him in police headquarters? A I did.

Q Do you know whom I mean? A Yes.

Q He visited your house frequently? A He did not.

Q You knew he was arrested in front of your house with burglary tools? A I did not.

Q Nick Marone and Carl Bielke and you took a trip to Scotch Plains one night? A Yes.

Q And one other man; is that right? A Right.



Q Four of you? A Right.

Q They were pals of yours on that trip, weren't they? A They were.

Q And they committed crimes with you, did they not?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi, pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY.

(SEAL) Judge.

Mr. McGeehan: The purpose of the question being to affect the credibility of this witness' testimony when he testifies he committed a crime with these defendants. I want to show that he habitually committed crimes with a gang of which he was a member.

Q Now, isn't it a fact that you were in this Reid hold-up with some of the various members whose names I have mentioned and whom you knew at the time and that when you were arrested you had previously had trouble with young Joe Juliano? A I had trouble with Joe Juliano, yes.

Q You did, didn't you? A Yes.

Q And you were very sore at young Joe Juliano? A I was, yes.

Q Say it loud enough that the jury can hear it? A I was, yes.

Q You threatened to get him, didn't you? A I didn't.

Q Did you say to the Sorenson girl one evening that you would get young Joe, that no one is going to make a fool out of you? A I didn't.

Q Shortly before you were arrested? A I didn't.

Q When you were arrested, Boudreau, isn't it a fact that the first ones to mention the names of these defendants were the detectives who questioned you? A No.

Q Isn't it a fact that you are shielding some men that you either fear or either have sufficient close friendship with at the expense of these men who you had never known? A No, sir.

Q Isn't it a fact that you are doing that to gain the benefit of avoiding the electric chair for yourself? A No, sir.

*Cross examination* by Mr. Kavanagh.

Q You know Ralph Schiabo, the barber here in Newark? A I know a Ralph; I do not know his last name.

Q You do not know the last name? A No.

Q Is Ralph Schiabo in court?

Q Do you know where the Riverside Cafe is at Jackson and Market streets in Newark? A I do.

Q Have you been in the habit of frequenting that place? A Yes, sir.

Q Do you know the proprietors' names? A I do.

Q What are their names? A I know them by Cary and Murphy.

Q Do you know Ralph Sciavo, the gentleman in the middle of the aisle there? A Yes, sir.

Q How long have you known him? A Since I went to work in Nutley.



Q For how long a time have you known him? A About a month.

Q Do you remember being in company with Bielke, George and two or three other of your pals in the Riverside Cafe about the 15th of September of this year? A I don't remember.

Q You and they and several other girls drinking in the back room there? A I remember being there; yes, sir.

Q Do you remember Mr. Sciavo being in that place at that time? A He has been in there, yes, a couple of times.

Q And you met him there on or about September 15 of this year, didn't you? A He was in there when I was there.

Q Did you meet him on September 15 of this year in that place, in company with your pals, Bielke, George and two other of your friends? A I did not.

Q You did not? A Yes, sir.

Q Do you remember when Mr. Sciavo went into the toilet of that cafe that night and you and Bielke and two or three others, George included, were sitting in the side room adjacent to the toilet? A I do not.

Q You don't remember that? A No, sir.

Q Do you remember calling Ralph Sciavo over to the party that was seated around the table? A I do not.

Q To Bielke, George and two other of your friends? A I do not.

Q And do you remember staying to Ralph at that time, "Jesus Christ, I just missed four grand up at Scotch Plains, George—

The Court: Just a moment.

Mr. Bigelow: I object.

The Court: I sustain the objection. What has that got to do with the case?

Mr. Kavanagh: To test his credibility, if the Court please.

The Court: You cannot prove it that way; you can ask this man any conversation he had with anybody concerning this case.

Mr. Kavanagh: I have a right, if the Court please, and I am laying a foundation for further testing of this witness' credibility.

The Court: You cannot offer that in this case, so, therefore, foundation is without avail. You cannot offer that evidence independently as part of your case or as cross examination.

Q Do you remember, though, meeting Mr. Sciavo that night, don't you? A I do not.

Q Do you swear that you never met him in this cafe? A I do.

Q Do you swear that you never came back from Scotch Plains on that night?

Mr. Bigelow: I object.

The Court: I sustain the objection.

Mr. Kavanagh: I ask an exception, if the Court please.

The Court: Mr. Kavanagh, as I said before, I will permit you to ask this man any questions which you think are proper for the purpose of laying a foundation to impeach him upon matters that are material to this case.

Mr. Kavanagh: Well, if the Court please, I submit this is very material in the respect



of testing his credibility regarding certain conversations that he had with these people that we will prove later on on the case of the defendant.

The Court: You could not offer that.

Mr. Kavanagh: I cannot offer it, but I have a right to question him for to test his credibility.

The Court: No, I rule against you.

Mr. Kavanagh: I ask an exception.

Counsel for the defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, Mr. Boudreau, you told Mr. McGeehan, on cross examination this morning, that you met Nicholas Joseph Juliano about ten days before this alleged hold-up; that is, the day of the hold-up being on July 19, 1926; is that right?

Mr. Bigelow: I object to Mr. Kavanagh cross examining on the cross examination of Mr. McGeehan. It seems to me he should be limited to cross examination on the direct examination of this witness.

The Court: I take it it is simply calling the witness' attention to a statement made in response to a question—he is directing the witness' attention to a question and an answer.

Mr. Kavanagh: That is all I am doing, if the Court please.

Q Now, when did you meet Nicholas Joseph Juliano? A About ten days before the hold-up.

Q Ten days before the alleged hold-up, is that correct? A Yes, sir.

Q And do you remember the date when you met him? A I do not.

Q Do you remember the month in which you met him? A It was in July.

Q July of what year? A 1926.

Q You never knew him before July, 1926, did you? A No, sir.

Q Why did you testify this morning, under cross examination, by Mr. McGeehan, that you were in company with Little Joe Juliano at the Firestone Athletic Club in Newark, in April of this year?

Mr. Bigelow: I object, it seems to me that is clearly cross examining the cross examination of Mr. McGeehan.

The Court: You are limited to examination upon the direct examination of this man.

Q Didn't you testify on cross examination that you met Nicholas Joseph Juliano in April? A I did not.

Q At the Firestone Athletic Club in Newark? A I did not.

Q Then you did not meet him in April, did you? A I did not.

Q You are sure of that? A Positive.

Q You say you first met him about ten days before July 19th of this year? A Yes, sir.

Q Now, where did you meet him? A I met him in a club on Drift street.

Q In a club? A Yes.

Q Whereabouts in Drift street? A Well, next to a baker shop.



Q Were you introduced to him? A I was not.

Q Well, how did you come to meet him? A I went there with another fellow.

Q What is the other fellow's name? A I don't recall his name.

Q Where did he live? A I don't even know where he lived.

Q Was that the first time you were in the club on Drift street? A It was.

Q And how did you come to go to that club? A I went with another fellow.

Q And that is the fellow that you have just referred to, is that correct? A Yes, sir.

Q And you don't know his name? A Yes, sir.

Q You don't know where you met him? A I do.

Q Where did you meet him? A In Pop's Spaghetti House on South Orange avenue.

Q When did you meet him? A About ten days before the hold-up.

Q And you don't know his name? A I do not.

Q How did you come to go to this club on Drift street? A Well, he was drinking and he asked me if I gambled and I said, "Yes," and he took me to the gambling house.

Q Where did you meet this man who took you to the gambling house on Drift street? A I met him at a table in Pop's Restaurant on South Orange avenue.

Q And not knowing him and not being friendly with him, you say he took you to this club on Drift street, is that correct? A I got an introduction to him that night.

Q Who introduced you? A Pop, the man who runs the spaghetti house.

Q Where is that located? A On South Orange avenue.

Q Whereabouts on South Orange avenue? A The number I don't know.

Q Do you know the number on South Orange avenue? A No.

Q Near what street? A Near 11th on Springfield, I cannot tell you the street, I don't remember.

Q Were you in the habit of frequenting that Pop's Restaurant? A I was.

Q How did you come to meet Nicholas Joseph Juliano? A Gambling that night on a pool table down at this club.

Q And nobody introduced you to him? A No, sir.

Q You are sure of that? A Positive.

Q You spoke to him yourself? A No, I didn't speak to him.

Q Well, how did you come to first come to speak to him if you did not speak to to him? A He spoke to me.

Q What did he say to you? A He said I was a game loser.

Q You were a game loser? A Yes.

Q And that was ten days before this alleged hold-up, is that right? A Right.

Q That is about the 9th day of July? A About that.

Q Do you remember what day it was that you went to this Drift street club with this friend of yours whose name you do not know? A Either Saturday or Sunday.

Q Was it Sunday? A I could not say.

Q Well, was it Saturday? A I couldn't say.



Q How do you know it was either Saturday or Sunday? A It was a week-end and I had been paid.

Q You had been paid ten days before this alleged hold-up is that right? A Yes, sir.

Q Where did you work ten days before this alleged hold-up? A I was doing work for myself, repairing automobiles.

Q Where did you work? A For myself.

Q For yourself? A Yes, sir.

Q What doing? A Repairing cars.

Q Where did you have a place to repair cars? A I had a place in Smith's garage, on Oriental Place.

Q You had a place there? A I did.

Q What did you mean by having a place in a garage belonging to another man? A I had space, rented space.

Q Did you pay rent for that space? A I did.

Q How much rent did you pay? A $25 a month.

Q And how long had you hired space in Smith's garage? A About a month.

Q About a month? A About a month.

Q And had you paid a month's rent? A I did not.

Q Had you paid any rent at all to Mr. Smith in that garage? A I did not.

Q For the month that you said you were there? A I did not.

Q Hired space? A I did not.

Q Did you ever pay any rent for any part or space in that garage for a month that you allege you repaired cars there? A I did not.

Q Don't you know, as a matter of fact, that you never had any space hired in Smith's garage? A I had space.

Q Well, you say you never paid any rent for the month you were there? A I do.

Q Did you ever enter into any agreement or lease with Mr. Smith for a part of the space in his garage?

Mr. Fisch: I object.

The Court: Do you not think you are taking up too much time on that?

Mr. Kavanagh: No. I think I have a right to go into questions of this kind.

The Court: If you think it is important and that is your understanding of importance, proceed.

Mr. Kavanagh: Absolutely. It is most important.

The Court: Proceed.

Q Now, you never entered into any written lease with Smith for part of that garage? A I did.

Q Now, isn't it a fact that the first time you met Nicholas Joseph Juliano, this young man here, was about the middle of August when he was introduced to you by a girl down at 16 Drift street, whom you claimed to be your sister? A No, sir.

Q Have you a sister living in the City of Newark? A I have not.

Q Have you a sister living in any part of the State of New Jersey? A No.

Q Did you ever have any girl at 16 Drift street whom you held out to your friends and to the public as your sister? A No.

Q You are sure about that? A Yes, sir.

Q Are you married? A I am.



Q When were you married? A About seven years ago—eight years ago.

Q Is your wife still living? A I don't know.

Q Where did she live? A Boston, Mass.

Q You have not been married a second time? A No, sir.

Q Now, Mr. Boudreau, you know, as a matter of fact, that subsequent to this alleged hold-up on July 19th of this year you invited Nicholas Joseph Juliano down to call at the place in Drift street where you lived, is that right? A I didn't live on Drift street.

Q Not on Drift street. I withdraw that. I mean on Ogden street. You did live on Ogden street? A I did.

Q What number Ogden street? A 16.

Q And when I speak of Drift street before I meant Ogden street, not Drift. Now, when did you first begin to live at Ogden street? A The 1st of May.

Q The 1st of May? A About that.

Q This year? A About that.

Q And is that a boarding house? A Well, boarding and rooming house.

Q Well, do you cook your own meals there? A Light housekeeping.

Q And you lived there under what name? A Boudreau.

Q And was anybody living there with you? A There was.

Q You had a woman living there, living with you, whom you represented to be your wife? A I did.

Q And is she in court at the present time? A I don't know.

Q What was that lady's name? A Myrtle Foster.

Q And you lived at 16 Ogden street with Myrtle Foster holding her out as your wife from May of this year until the time you were arrested, is that right? A Right.

Q Now, Mr. Juliano came up to 16 Ogden street with some girl subsequent to July 19th?

Mr. Fisch: You mean Little Joe?

Mr. Kavanagh: I mean Nicholas.

Q Didn't he? A I couldn't say about the date, but I know he came there.

Q Well, do you remember an occasion about the first week in August when Mr. Nicholas Joseph Juliano came up to your place with a young lady? A I do.

Q And you know that young lady, don't you? A I do.

Q What is her name? A Katherine Hoffman.

Q And that young lady was supposed to be your sister, isn't that a fact? A No.

Q You know, as a matter of fact, that you introduced her to many people at 16 Ogden street as your sister, didn't you? A I did not.

Q Will you swear that you never introduced this girl Katherine as your sister?

Mr. Fisch: Now, this man is under oath and he knows it and he has repeated it a half a dozen times and I object to the question.

The Court: You have asked it four times.

Q Mr. Boudreau, when were you arrested in this case? A October.

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

Q Do you remember the day that you were arrested? A It was on a Thursday.



Q What time of day were you arrested? A About 3:30 or 4 o'clock, somewhere there.

Q In the morning? A Afternoon.

Q Where were you at the time you were arrested? A Up on South Orange avenue.

Q What place? A I was headed towards Newark.

Q And do you remember being taken to police headquarters? A I do.

Q Was Nicholas Joseph Juliano arrested before you were, if you know? A No.

Q He was arrested after you were arrested, is that right? A Yes.

Q And do you remember his being in a cell at police headquarters on the tier where you were? A No, I don't.

Q You do not remember his being in a cell at police headquarters in the same tier that you were? A No.

Q Will you say he was there? A I will say he was there the next day.

Q Well, you say he was arrested after you were, is that right? A That is right.

Q That is true? A That is true.

Q Now, you saw him at police headquarters, as you testified this afternoon, in the line up? A I did.

Q Now, after you had been put in the telephone booth with the mask on you, and after you were alleged to have identified these four men were you put back in a cell at police headquarters? A I was taken in the Captain's office.

Q Well, I mean after leaving Captain Brex's office, you have been to police headquarters ever since you were arrested? A Yes.

Q Now, after you left Captain Brex's office, after pointing these four men out, you were put back in a cell where you first were? A I was.

Q And the other defendants were put in other cells along the tier where you were, is that so? A I know one was.

Q Now, who is that one? A That is Little Joe.

Q Little Joe Juliano. That is what I am getting at. And did you have any conversation with Little Joe Juliano? A I did not.

Q Didn't you have a conversation with him that afternoon, late in the afternoon of the Saturday that you were arrested? A I did not.

Q Do you mean to tell this Court and jury that you did not have any words at all with Little Joe Juliano the Saturday morning, the date on which he was arrested? A I do.

Q Didn't you say to Joe Juliano, Little Joe Juliano, calling out to him from the cell in the tier where you were to the cell on the same tier where he was that I am sorry I did anything of this kind, Joe; I didn't mean to bring you into this, because I know you are innocent? A I did not.

Q Didn't you say that to Little Joe Juliano at that time? A I did not.

Q What did you say to him at that time? A I did not say nothing to him.

Q You swear you did not say anything to him that afternoon?

Mr. Fisch: He just swore that.

The Court: He is under oath. Everything he is doing is under oath.



Q Now, Mr. Boudreau, you know a girl named Catherine Daniels? A Not by that name, no.

Q How long have you known her?

The Court: Mr. Kavanagh, you evidently have not heard the answer.

Mr. Kavanagh: I did not think he had answered the question.

The Court: Then, why ask how long he knew her?

Q Will you answer that question?

The Court: He has answered it. He says he doesn't know any girl by that name.

Q Do you know a girl named Kathleen? A I do.

Q Did she ever go under the name of Kathryn? A Not to my knowledge.

Q Where did she live? A She lived on Plane street first.

Q Did she ever live at 16 Ogden street? A She did.

Q Do you remember when she first went to live at 16 Ogden street? A She came there with little Joe Juliano.

Q And that was when? A The date, I don't know.

Q Well, will you tell us what month it was in? A It was in August or September, I am not sure.

Q That was about the first week in August, wasn't it? A That I am not positive of.

Q Did that girl ever hold herself out to your friends as your sister? A Yes, sir.

Q If you know.

The Court: Did you ever hear her hold herself as your sister?

Witness: Her?

The Court: Yes.

Witness: I have heard her, yes.

Q And she was the young lady that brought Nicholas Joseph Juliano around to 16 Ogden street to meet you, isn't that a fact? A She came there with him.

Q When did she first come there with him? A The date I don't know.

Q Can you tell us what month it was in? A Either August or September, I am not sure.

Q Was it the first of September or the middle of August? A I can't say.

Q You cannot tell? A No, sir.

Q Now, isn't it a fact, Boudreau, that the first time you ever met Nicholas Joseph Juliano was when this young lady, Kathleen Daniels, or Kathryn Daniels, introduced him to you? A I don't know Kathryn Daniels.

Q Well, the girl Kathleen, whatever her last name is. A No, sir.

Q What is her last name, do you know Kathleen's last name; did she ever go under the name of Daniels? A I never heard that name.

Q Did she ever go under the name of Gertrude Daniels? A I never heard that.

Q Well, did you ever know her last name? A Well, it was Hoffman, there what I knew.

Q Kathleen Hoffman or Gertrude Hoffman? A Kathleen.

Q That was the young girl that Nicholas Joseph Juliano went around with, to 16 Ogden street, isn't that a fact? A That's right.



Q Now, at the time of her coming around there—do you remember her coming around there one morning with Nicholas Joseph Juliano about the middle of August of this year, and the girl that you lived with as your wife, and yourself, coming down to the door to meet them, do you remember that occasion? A I remember meeting them, yes, sir.

Q Do you remember Myrtle, the girl that you lived with as your wife, and yourself, coming down outside of 16 Ogden street and meeting Nicholas Joseph Juliano and this girl Kathleen? A I do.

Q And do you remember Kathleen said she was your sister, introducing Nicholas Joseph Juliano to you in the presence of your alleged wife, Myrtle? A She gave me an introduction as Bill.

The Court: Who?

Witness: She referred to him as "Bill," she said, "This is Bill."

Q When was that, do you remember? A That was that date you are referring to.

Q That was about the first part of August of this year, isn't that a fact? A I don't know the date.

Q Well, don't you know as a matter of fact that it was long after this alleged date, July 19th, when this Reid place was alleged to be held up? A I know it was after, yes, sir.

Q And don't you know as a matter of fact, that it was the first time that you had ever met Nicholas Joseph Juliano, the morning when Kathleen introduced him to you and to your alleged wife, Myrtle, in front of 16 Ogden street in the City of Newark? A It was not.

Q You say it was not? A Absolutely.

Q Had you ever been in Nicholas Joseph Juliano's company prior to the time that he was introduced to him as Bill by this girl Kathleen? A I had been in his company before.

Q When? A I was in his company before.

Q Don't you know you were never in his company before? A I was in his company.

Q Where were you in his company? A I met him on Drift street.

Q Were you ever in his company at any time, prior to the first week in August of 1926, except on the occasion that you said you met him in Drift street in a gambling house? A I was.

Q When? A Two or three times.

Q When was that? A One night he came around to the house, and the next night I met him at Orange street.

Q Can you tell this jury why, if you had met Nicholas Joseph Juliano at any time prior to the first week in August, that he was introduced to you that night as Bill, by the girl Kathleen? A I don't quite get that statement.

Q Now, you know as a matter of fact that that was the first time you ever met him, and that was the first time you were ever introduced to him? A I had met him before.

Q Well, why was it necessary to have an introduction made of him to you at that time if, as you say, you had met him before? A I took an introduction so as not to let Myrtle know I was in it.

Q Why did you take the introduction? A Not to let Myrtle know, so as the girl would not know I was in it.

Q Because what? A So as the girls would not know I was in it.



Q Was in what? A In the stick-up.

Q That is your excuse, is it?

The Court: That is his answer.

Mr. Fisch: If the Court please, I object to that, it is not an excuse, it is an answer.

Q That is your answer. I will withdraw the word "excuse." Is that right? A That's right.

Q Now, Boudreau, you had a quarrel with Nicholas Joseph Juliano, didn't you? A I did.

Q When did you have that quarrel? A It started in Nutley.

Q When? A Prior to the time I was working there.

Q When? A The time I was working there.

The Court: What month, approximately? Give us some date.

Witness: The latter part of September.

Q The latter part of September? A About that.

Q And where were you working then? A I was working in Nutley in a spaghetti house.

Q Where were you working? A Working in Marone's place.

Q In a spaghetti house belonging to Nick Marone? A Yes, sir.

Q And you had a quarrel with Nicholas Joseph Juliano at that time? A I did not have no quarrel, I had words with him.

Q Didn't you say that you would get him? A I did not.

Q Didn't you have a quarrel with him or with some young lady? A No, sir, I did not.

Q Well, what did you have a quarrel with him about? A Over a car that was stuck up on Center street.

Q Over a what? A A car.

Q Over a car? A That's right.

Q That was the only quarrel that you had with him, about a car, is that right? A That's right.

Q Didn't you have a quarrel with him regarding something else? A I had no quarrel, no, sir, I had words.

Q And didn't you say, in the presence of some of his friends up there, at Marone's Restaurant that you would get young Joe? A I did not.

Q What was the quarrel about, this quarrel that you had with him? A I came back and said it was out of gasoline, and of course it started that way, that I didn't know how to drive a car, I didn't know how to run a car, I was drunk, and it started with words, but there was no quarrel, it was just words.

Q No quarrel? A No, sir.

Q Why did you say before that there was a quarrel? A There was words, I repeated.

Q Did you ever threaten to get him for something that he is alleged to have done to you? A (No answer.)

Q Did you ever threaten to get him on account of some jealousy between you and him or with some young lady? A I did not.

Q You never had any quarrel with him regarding a girl, did you? A I had words, yes, sir.

The Court: Over a girl?

Witness: Yes, sir.



Q Why did you say a moment ago, Mr. Boudreau, when I asked you that you did not have any quarrel over a girl?

The Court: Just a moment, he differentiates, you call it a "quarrel" and he calls it "words."

Q Well, what was it that you had, a quarrel or words, or an argument or what? A It was words.

Q Well, what were the words? A To what question are you referring?

Q When you had this quarrel or argument or words over this young lady. A It was through the car, it started.

Q Then, you never had any quarrels with him over a girl, did you, yes or no? A No, I did not.

Q Why did you state a moment ago that you had words with him over some girl? A I did have words with him.

Q Well, why do you say now, in answer to my question that you did not have any words with him.

Mr. Fisch: He did not say that, if the Court please. I submit the witness has all along maintained that he had no quarrel over a girl, but that he had words over a girl.

Q Just a moment, was there a quarrel or an argument or words?

The Court: Do you want to know what the words were?

Mr. Kavanah: Yes.

The Court: Ask him.

Q Then, there was no quarrel? A No, sir.

Q There were only words? A Yes, sir.

Q Tell the Court and the jury what the words were. A I asked him why he was hitting her for, he said it was his business, and I asked him not to hit her any more because she was sick.

Q Who was sick? Who was he hitting? A This Katherine Hoffman.

Q And is that the quarrel or the words you say you had? A That is it.

Q Well, that was no quarrel, was it?

The Court: Just a minute. He said it was not a quarrel. You insist it was a quarrel. He said it was words.

Q Now, Mr. Boudreau, you say you had words with Nicholas Joseph Juliano over this young lady? A I did.

Q Now, you said a moment ago that you told him not to strike her, that she was sick; is that right? A That is right.

Q Well, where were the words? You did not have any argument with him or any words with him? A Yes, I did, when he hit her.

Q What? A After he hit her I had the words with him.

Adjourned until Thursday, November 18, 1926, at 10:00 o'clock A. M.

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FOURTH DAY.

Thursday, November 18, 1926.

Appearances as before stated.

Trial continued.

The Court: Mr. Kavanagh, the prosecutor objected to your cross examining the witness Boudreau on anything testified to in his cross examination by Mr. McGeehan. I directed you to confine your cross examination to his direct testimony. There were some questions asked by you touching upon his answers in Mr. McGeehan's cross examination. I wish to say to you now that you are privileged to cross examine Boudreau or any other witness not only on the direct examination, but upon Mr. McGeehan's cross examination, and if you wish to recall Boudreau now for the purpose of further cross examination you may do so.

ROBERT BOUDREAU, resumes the stand.

*Cross examination* (continued) by Mr. Kavanagh.

Q Boudreau, you swore yesterday afternoon that the first time you ever met Nicholas Juliano, Little Joe, was ten days before this alleged hold-up, July 19th, of this year? A That is right.

Q Do you desire to retract that testimony? A No, sir.

Q And you also swore that at the time you met Nicholas Juliano was on a Saturday or Sunday night about ten days previous to July 19th, this year, is that right? A That's right.

Q Now, I desire to give you an opportunity to retract that testimony. Do you desire to take advantage of it? A I stick to what I said.

Q Do you desire to take advantage of the opportunity to retract that testimony?

Mr. Fisch: I submit the question has been answered.

The Court: Sustain the objection.

Counsel for Nicholas Joseph Juliano, alias Little Joe, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q You are still positive it was ten days before July 19th or thereabouts? A Yes.

Q You also swore that the first time you met Nicholas Joseph Juliano was in a club up on Drift street, in Newark? A That is right.

Q Do you desire to change that testimony? A No.

Q You still stick to it and say that it was in a club at 18 Drift street, Newark? A I do.

Mr. Fisch: The testimony did not disclose any number.

The Court: He said it was a club on Drift street.

Q Do you know the address of that club on Drift street where you say you met him? A I do not.

Q You do not know the address? A No.

Q And you did not testify yesterday as to any numbers of that club? A No.



Q Now, Mr. Boudreau, you say that the first time you met him was on a Saturday or Sunday night? A I do.

Q Is that right? A Right.

Q In this Drift street club? A Right.

Q And that you were not introduced to him at all by anyone? A No.

Q That he came up voluntarily and spoke to you? A Right.

Q Now, Boudreau, how many times between that occasion ten days before this hold-up, when you first met Juliano, how many times were you in company with him between the first time you met him and the time of July 19th that you swear you met him in the early hours of that morning? A About five or six times.

Q Five or six times? A About that.

Q Now, where were you with him on these five or six occasions? A I was up on Drift street one night with him.

Q Was that the first night you met him? A That was the first night.

Q Now, that was on one occasion. Now, when did you meet him after that? A I met him on Orange street.

Q How long after the first time you met him? A About two days.

Q About two days after? A That is right.

Q Did you meet him by appointment or accidentally? A Accidentally.

Q So that the second time you met him was about two days after the first time, is that right? A Right.

Q Now, when did you meet him again? A I met him about two days after that.

Q Where did you meet him? A I met him on Broad street.

Q Did you meet him by appointment or did you meet him accidentally? A I met him accidentally.

Q Now, that was the third occasion? A Yes.

Q Now, when did you meet him after that? A I met him on a Saturday after that.

Q That was the following Saturday, a week after the first time you met him, is that right? A About that.

Q Now, when did you meet him on that Saturday? A I met him on Broad street again.

Q And that was the Saturday previous to July 19th? A Right.

Q In other words, it was the 17th of July? A Right.

Q Now, what time did you meet him on the 17th of July, two days before this alleged hold-up took place? A It was around 7:00 o'clock.

Q Seven o'clock in the morning? A No, it was in the evening.

Q Seven o'clock in the evening? A Yes.

Q You are sure about that? A Yes.

Q You are sure it was 7:00 o'clock in the evening of July 17th on a Saturday night? A It was around 7:00 o'clock.

Q Did you meet him accidentally or did you meet him by appointment? A I met him accidentally.

Q Where did you meet him accidentally on the evening of July 17th at 7:00 o'clock? A It was at the normal school on Broad street.

Q I didn't get that. A It was at the normal school on Broad street.

Q Near what streets? A Well, nearer to 4th avenue.

Q You were just walking along, were you? A I was.



Q And you met him coming along? A I did.

Q Was anybody with you at that time when you met him on Saturday night, July 17th? A I was alone.

Q Was anybody with him? A No, he was alone.

Q Now, did you stop to hold a conversation with him that night? A I did talk with him.

Q How long did you stop that night? A I was with him for about three or four hours.

Q Talking three or four hours, is that right? A Yes.

Q Where did you go? A We drove around the city.

Q And what time did you leave him that night? A Half-past ten or quarter to eleven.

Q And did he go any place? A Not with me, no.

Q Did he tell you where he was going when he left you? A No, he didn't.

Q Did you meet his wife that night? A No, I didn't.

Q Where did you leave him at half-past ten on Saturday night, July 17th? A I left him at the corner of Harvey street and Belleville avenue.

Q Did he have his car with him that night? A He did.

Q When you left him? A He did.

Q He had his automobile? A He did.

Q And he was alone in the automobile? A He was.

Q He did not tell you where he was going at that time? A He did not.

Q Did he tell you he was going to Morristown? A No.

Q He did not tell you that? A No.

Q And you did not ask him where he was going? A I did not.

Q Now, you were taken to headquarters, you told us yesterday, and for some hours you denied your participation in this alleged crime, is that so? A I don't understand the meaning of that.

The Court: When you were accused of this crime, did you deny it for some time?

Witness: I did.

Q Is that right? A That is right.

Q What? A I did.

Q You denied your participation in it? A I did.

Q And then, after the police told you something, then you said that these men, whom you have mentioned, participated in it with you, is that right? A I did.

Q Now, why was it necessary, if, as you swore this morning, yesterday, that you knew little Joe Juliano for ten days prior to this hold-up on July 19th, why was it necessary for you to be shown a picture of him if you knew him? A Because I had made my statement and brought him into it.

Q You made your statement before the picture was shown to you, didn't you? A Yes, I think I did, I am not positive whether I was showed the picture before I finished my statement or not.

Q Well, all right now. Why was it necessary for you to go into the 'phone booth with a mask on your face if you had testified before that you knew Joe Juliano? A Because I was threatened by little Joe Juliano.



Q Because you were threatened? A Yes.

Q That is your answer to that? A Yes.

Q Now, who introduced you under the name of William to Little Joe Juliano after this hold-up? A I do not get what you mean.

Q Were you introduced to him after this hold-up down on Ogden street? A No, I was not.

Q You did not swear yesterday that you were introduced to Little Joe Juliano for the first time down on Ogden street? A I was.

Q By some young lady? Is that right? A Yes.

Q Now, were you introduced under the name of William to him? A He was introduced to me under the name of William.

Q He was introduced to you under the name of William? A Of Bill, not William.

Q How long after the night of July 19th did you obtain the introduction? A Well, I could not just say.

Q Well, can you approximate the time, was it two weeks or three weeks? A It is the latter part of August or the first part of September.

Q Either the latter part of August or the first part of September? A Somewhere in there.

Q No doubt of that in your mind at all? A I am not positive.

*Re-cross examination* by Mr. McGeehan.

Q When you were at headquarters just before the time that you passed in front of the line containing the defendants, had you been picked out by someone down there? A I had.

Q And was Bielke with you at the time? A He was.

Q And was Bielke picked out? A He was.

Q And was the man who picked you and Bielke out—is Mr. Seigel here? Is that the man who picked you two out? A Yes.

Q Now, can you tell us whether your friend George who went out West with you, has blond hair or light hair? A He has light hair.

Q Can you tell us how tall he is, about? A Well, he is a little taller than I am.

Q Taller than you are? A About; I could not say how much.

Q But he is taller than you? A Yes.

Q And he is slim? A Yes.

Q A tall, slim man, with light hair, is that right? A Right.

Q Now, will you describe the two men that you went up to the Firestone A. C. with or the place on Park avenue, whose names you do not know?

Mr. Bigelow: I object. As I recall he went up there with Little Joe.

The Court: Yes.

Mr. McGeehan: Yes, but I think he testified when I asked about DePhilip and Rogerio or Pete Rogers he said he knew two men, but wouldn't be sure of the names.

Q Now, the two men of whom you said you knew but did not know their names, will you describe what they looked like?

Mr. Fisch: I object. I do not see that that is a fair question.

Mr. McGeehan: All right. We have evidence that we will bring in on the defense that will be competent and he has already



answered this on his previous cross; in other words, the testimony now is, I know two men, but I don't know their names. I think it is relevant on cross examination.

The Court: You said you have witnesses who would connect it up and pointing out collateral matters which would not be—you may ask him if he cannot describe the two particular men.

Q Now, what do they look like? A Well, one man I seen was tall and the other medium and stocky.

Q Dark hair or light hair? A I could not tell that. They had on hats.

Q And the other man was tall? A Tall and slim.

Q Dark hair? A I could not tell that.

Q I forget whether you said you remember calling a man out of the lunchroom the night before you were arrested. A I did not.

Q You say you did not do that? A Yes.

Q You did not see any man there and called him out? A I did not.

Q And say what I asked you previously to him? A I did not.

*Re-direct examination* by Mr. Bigelow.

Q Boudreau, in this line-up in which Mr. Siegel picked you out, what did he do to pick you out? A Put his hand on me.

Q He did not say anything to you? A No, he did not say nothing.

Q And then he put his hand— A On Bielke.

Q Did you hear him say anything when he put his hand on Bielke? A I did not.

Q Were there just you two in that line-up? A No, sir. There was about ten or twelve, I did not count them.

Q And were you standing next to Bielke? A I was not.

Q Do you recall about how many there were between you? A About five or six.

Q Now, you testified on cross examination that R. G. was tattooed on your arm, or so I understood? A Yes.

Q What does that R. G. stand for? A That is my name, Raymond William Gamach.

Q The G does not stand for Gordon? A It does not.

Q It stands for Gamach? A Yes.

Q Now, you met Little Joe earlier on the morning of the 19th up there on Broad street? A I did.

Q And I think you testified that at the time of meeting him you did not have any conversation with him as to the purpose of the meeting? A No, sir.

Q But you had had conversations with him before, had you not, on the purpose of that meeting? A I had.

Q And you knew it was for a hold-up? A I did.

Q And then you met him by appointment? A I did.

Q Now, when you got down to Clay street in your car, as I recall your testimony, two of the men got out of the car, didn't they? A Yes.

Q They were Barone and one of the others—was Barone one of the men who got out? A Yes.

Q And who was the other? A Ruff.



Q And you and the other three stayed in or by the car? A Yes.

Q Stayed there an hour or more?

Mr. McGeehan: I object. When the prosecutor said you stayed in or by the car, that is not what the witness testified to. He said they stayed in the car.

Mr. Bigelow: Let me reframe it by leaving out the word by.

Q You stayed in the car? A I did.

Q And you stayed there for about an hour or more? A About.

Q And during that time did you have full opportunity to see the faces of the two men who were in the car with you? A I did.

Q Now, the other two men, as I recall you testified, went across the street and walked up and down Mt. Pleasant avenue and Ogden street or went across Mt. Pleasant avenue to the northwest corner? A That is right.

Q And continued along that block also for about an hour? A Yes.

Q And were they within your sight all that time? A They were.

Q And you got a good look at them? A I did.

Q Now, I think you also testified that when you were going in the car down to Clay street that Little Joe told you the names of these other men? A He did.

Mr. McGeehan: This is all a repetition of testimony that has gone before. I do not think it is re-direct, any one of the questions so far asked.

Q What names did he tell you? A He gave me the names Joe, Ruff and Chris.

Q Did you afterwards have any conversation with him about these names? A Yes, sir, I did.

Q What was that? A He told me that Big Joe Juliano was his cousin and the other fellow was Kid Ruff and the other one was Chris Barone.

Q Now, in answer to one of Mr. McGeehan's questions, you said there was a man at one stage of this hold-up on the running board, but I do not think you testified who was on the running board. Now, I ask you who was? A Little Joe Juliano.

Q What was he doing, if you saw? A He pointed a revolver at somebody in the office window upstairs.

Q Did you hear him say anything at that time? A I did.

Q What did you hear him say? A "Pull your head in or I will fill you full of lead."

Q Now, you spoke of a boy being with Condit; about how old would you say he was? A About eighteen or twenty.

Q Will you describe him as to height, weight and so forth? A Well, he is not quite as tall as I am, about five feet seven, probably eight; I am not sure.

Q Was he thin or medium— A Medium.

Q Mr. McGeehan also asked you something about repainting the Pierce-Arrow.

Mr. McGeehan: I think counsel is incorrect. I think I asked him if he stated to a certain girl that the car he had was a Cadillac.

Mr. Bigelow: I accept the correction. Thank you.



Q Did Little Joe say anything to you at any time about repainting the Pierce-Arrow?

Mr. McGeehan: I object to that as leading.

The Court: Sustain the objection. As I take it, so far as Mr. McGeehan's question is concerned, it is not whether Little Joe said it to him; it is whether he made that statement to somebody else.

Mr. Bigelow: I do not think it is particularly important anyway, your Honor.

Q What did Little Joe say to you when you asked about the money from the hold-up? A He said to me that he did not have it, and that they held it in New York for two weeks to see if everything is all right, and he said, "Remember, if you ever squeal and I go to jail or anybody else goes to jail, somebody else will get you."

Q And they never gave you your share of the money? A I never got nothing.

Q When you were put in that phone booth why did you ask for a mask? A Because I was threatened by Little Joe Juliano that I would be got.

Q That was the threat you just spoke of? A Yes.

Q During the cross examination yesterday afternoon you were asked if you had ever gone up to the Reid plant with police officers and you said you had not. Weren't you mistaken in that? Didn't you go—

Mr. McGeehan: I object to that. The prosecutor cannot impeach his own witness. We are able to prove he did.

The Court: That is not impeaching the witness. I will allow that question.

Q Do you want to correct that testimony? A I do.

Q What is the fact? A I was confused by him talking and I answered the question and I did not get a chance to correct it.

Q And did you, as a matter of fact, make a trip with some officers? A I did.

Q Was Mr. Fishkind, the official stenographer who is in front of you here, on that trip or on one of those trips? A He was on that trip; yes, sir.

Q And was Mr. Linarducci of my office there, this gentleman? A No, sir.

Q The one sitting next to him (indicating Detective Guiliano)? A Yes, sir.

Q Where did you go that time? A I went over the route that I had been over on the stick-up.

Q Who gave the directions for driving as to where you should turn—

Mr. McGeehan: I object to that as calling for hearsay and statements of persons not binding on the defendant.

The Court: Objection sustained.

Q Did you make another trip to some other point? A I did.

Q Where did you go that time? A I asked them to take me to a spaghetti joint on South Orange avenue, to Drift street, and to take me over the route again, because it was nighttime when I went over it, then, and I was confused whether it was Third avenue or Fourth avenue.



Q That is, the second time you went to the spaghetti house on South Orange avenue? A Yes, sir.

Q And to some place on Drift street? A A gambling house on Drift street.

Q Is that the place that has been called the club? A Yes, sir.

Q The time you went to the club on Drift street and met Little Joe there, and you said you were gambling, what was the game? A It was a crap game.

Q What did Little Joe have to do? What was he doing there, for instance? A He was shooting crap alongside of me.

Q And you lost some money and he said you were a game loser? A I did.

Q Did Little Joe at that time or any other time prior to the hold-up ask you if you had ever done time? A He did.

Q And you told him you had? A I did.

*Re-cross examination* by Mr. McGeehan.

Q I understand you to say on your re-direct examination that you did not get any money out of the hold-up that you say you participated in; is that right? A That's right.

Q And that when you asked Little Joe for it, he said it was being held two weeks; is that right? A That's right.

Q Had you read in the newspapers, or did you know otherwise, by other inquiry, how much money was stolen at the Reid plant? A I read it in the newspapers; yes, sir.

Q You learned it only through reading it in the newspapers; is that right? A Yes, that's right.

Q And he told you the other men, the men whom you say were the other three defendants, had this money; is that right? A He did not say they had the money.

Q Didn't you a moment ago say that he said the other men were holding the money? A The men in New York; he did not refer to anybody.

Q The men in New York? A That's what he said.

Q What men in New Yrk? A I don't know.

Q Now, then, you did not get a cent out of your participation in this hold-up; is that right? A Yes, sir.

Q And when you, on the one other occasion in your life that you say you saw **Big Joe Juliano** on Drift street, as he came along in his automobile, the only thing you said was, "Oh, look, the lug on your wheel is loose." Is that right? A I told him there was a strap loose, or a lug, whatever you call it.

Q That is all you talked about then? A That is all, yes, sir.

Q You did not say anything then, "Say, I want my money out of this hold-up that you were in with me." You did not say that, did you? A No, isr.

Q You did not quarrel or argue with him about your share, did you? A I did not.

Q You did not mention the subject to him, did you? A I did not.

Q And on the other occasion, the other occasion when you in your life say you saw Barone was up around Belleville or near the terminus of that jitney route that you told of, you did not say there, "Hey, Barone, I want my money—I want my share of the money that we stole," did you? A I did not.



Q You never went to his house or to Juliano's house or Ruff's house to get the money, did you? A I did not.

Q You never made any effort to get it? A Not after I was threatened; no, sir.

Q After you were threatened, and you say it was Young Joe Juliano who threatened you? A It was.

Q You did not testify on your direct examination that he threatened you, did you? All you testified to was that they were holding it for three weeks to see if it is all right—

The Court: Now, Mr. McGeehan—

Mr. McGeehan: Maybe I am wrong, but I am giving him a chance to say it.

Q Didn't you say that before, that what he said was, and all he said to you was, when you asked him for the money, that they were holding it for two weeks? A I did.

Q Now, did you say that he then threatened you or not? A He did there; yes, sir.

Q And he threatened you that you could not get your money? A He did not threaten me that I could not get the money; no, sir.

Q Then you never asked again about the money, did you? A No, sir, I did not.

Q Did you have a lot of money around that time? A I did not.

Q You say that you want to correct the testimony that you gave here yesterday with regard to whether you did go out to the Reid company and the scene of the hold-up with a number of police officers, and now you testify that you did go there, don't you? A I did.

Q Now, you say the reason that you testified differently yesterday and exactly the opposite of that, is that you were confused? A I was.

Q Now, are these the questions and answers upon which you were confused: "*Question:* You were taken by the police to go over your story with them, weren't you? *Answer:* I was not. *Question:* Haven't you been there with the police at all? *Answer:* No, sir. *Question:* Are you sure that you were not taken to the Reid place about a week after you were arrested, in company with a wagon-load or two or three officers, to go over your story there with them? *Answer:* I was not. *Question:* You left police headquarters, didn't you? *Answer:* I did not. *Question:* Did you leave police headquarters? *Answer:* I did today. *Question:* No, I mean a week or so after you were arrested with a lot of officers, didn't you go somewhere outside of police headquarters? *Answer:* No, sir. *Question:* You say no? *Answer:* Yes, sir. *Question:* You are positive of that? *Answer:* Positive." Now, you say in every one of the twelve or fourteen answers you gave there, you were confused and didn't know what you were talking about? A I was confused, yes, sir.

Q But you knew what you were talking about, didn't you? A I was trying to correct it, but the question came that quick I did not get a chance to correct it.

Q Mr. Boudreau, you know when I asked each one of those questions and you gave each one of those answers that you were lying, didn't you? A I was confused.

Q You knew you were deliberately and purposely lying, didn't you? A I did there, yes, sir.



Q And you were lying because you thought the policemen who have charge of you for the last month at headquarters wanted you not to tell about that trip out there, isn't that so? A No, sir.

Q You want to please Captain Brex and the officers who are in charge of you, don't you? A I do not.

Q Do you want to do anything—you said yesterday you would do anything to save yourself from the chair, and you would lie about whether you went to the Reid plant, wouldn't you? A I did not.

Q Have they talked to you over night about what you said yesterday about that? A I talked to Sergeant Luke Conlon.

Q Tell us about what Sergeant Luke Conlon told you about saying that? A I told Sergeant Luke Conlon that I had made a mistake and I wanted to correct it.

Q Didn't he tell you, "How did you come to say that, because three loads of police officers were out there and the papers were full of it, and everybody knows it." Did he tell you that?

The Court: Just a minute, Mr. McGeehan, do not testify in your enthusiasm.

Mr. McGeehan: I am asking this witness a question.

The Court: There is a way of asking questions, too.

Q Did he say that? A What is that question?

Q (Last question read as follows:) "Didn't he tell you, 'How did you come to say that, because three loads of police officers were out there

and the papers were full of it, and everybody knows it.'" A I did not get the meaning of that question.

Mr. McGeehan: I will withdraw the question.

Q Did other officers talk to you last night or this morning? A No, sir.

Q Nobody else? A No, sir.

Q How many men were in charge of you coming up here? A Sergeant Luke Conlon—

Q How many men, I asked you? A About four.

Q You came in yesterday with four or five detectives, didn't you? A Yes, sir.

Q And those gentlemen are in charge of you all the time? A Yes, sir.

Q And you came up with them from headquarters today, didn't you? A Yes, sir.

Q In a patrol wagon? A No, sir.

Q In an automobile? A Yes, sir.

Q And you were talking to them when you were coming up, weren't you? A Yes, sir.

Q About many things? A No, sir, not many.

Q Well, they were talking to you about your testimony, weren't they? A They were not.

Q Where did Conlon speak to you about it? A I talked to him leaving the court room yesterday.

Q And to no one else? A No, sir.

Q Did Captain Brex speak to you about it? A No, sir.

Q Now, you wanted to change that story, and you knew you had told an untruth, didn't you? A Yes, sir.



Q And weren't you told by any one that the stenographer who was taken along knew that it was not so? A It was not.

Q And that three wagon loads of officers were with you? A I was not.

Q Now, as a matter of fact, you knew then and had in mind that you were testifying that these men were on trial for their lives for murder, when you gave those answers, didn't you? A Yes, sir.

Q Yesterday, at noontime, after you had told about being in the 'phone booth with the mask and all that, you then went out to lunch, didn't you? A I don't know whether it was before that.

Q Well, you went to lunch right after that, didn't you? A Yes, sir.

Q And when you came back here you said the reason you went in with the mask was that some one had threatened you, is that right? A That's right.

Q Did any one suggest to you to give that as an explanation for that 'phone booth episode? A Did any one what?

Q Did any one talk to you about that part of it? A No, sir.

Q Are you sure of that? A Positive.

Q How many detectives altogether were in the detectives' room at headquarters in charge of these four men when you were hiding in the 'phone booth. Tell us about how many detectives were there? A About, probably six, more, maybe, I could not see them all.

Q Do you think maybe there were fifteen? A There might have been, I don't know.

Q There was a crowd of them, wasn't there? A I cannot say whether there was or not.

Q And do you mean to say that you, surrounded with policemen, and that these men in custody, with ten or fifteen detectives in the room, that you were afraid to be brought into the presence of these men? A I was.

Q Because one of them had threatened you at one time? A I was.

Q How was it, then, that ten minutes later, or twenty minutes later you were not afraid of them, how did that happen? A I figured that I would go before they did.

Q They brought you in there before that, didn't they? A Yes, sir.

Q You were not afraid then, were you? A I was.

Q You were afraid? A I was.

Q You were afraid when you were arrested, weren't you? A No, sir, because I didn't know what I was arrested for.

Q But you had been before that in a line-up with them—you had been in a line-up with them several times, too, haven't you? A I have.

Q Ten minutes after the 'phone booth business you were right in front of them with the detectives around every one of them, weren't you? A I was.

Q And you say that the only reason you got in the 'phone booth with the mask on was when they were turned this way and that way was because you were afraid, is that right? A That's right.

Q Isn't the truth that you did not know the men at all, and you said you wanted a good look at them before you were brought before them to identify them, and that you would identify them if that were done? A No, sir.



Q Have you been taken to the City Hospital at any time that you were at headquarters? A I have not.

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PHILIP SEIGEL, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Mr. Seigel, how old are you? A Twenty-nine.

Q Where do you live? A 698 South Nineteenth.

Q That is here in Newark? A Yes, sir.

Q What is your business? A Druggist.

Q Where is your drug store? A I have one in Newark and one in Kearny.

Q Where is the one that you have in Newark? A At 19th avenue and South 20th street.

Q Where is the one that you have in Kearny? A Quincy avenue and Elm street.

Q Do you carry on that business in your own name? A One I do.

Q Last July did you do business, buy ice cream or anything of that source, from the Reid Ice Cream Company? A I did.

Q Did you have occasion to go to that company's place of business on July 19th? A Yes, sir.

Q At what hour? A At the hour of a quarter of ten or thereabouts.

Q How did you go, afoot or on the trolley, or how? A With my car.

Q Over what streets did you get there, how did you go? A Down to Kearny avenue, over the bridge to Mt. Pleasant avenue, to Clay street to Mt. Pleasant avenue.

Q You came into Newark over the Clay street bridge and then turned up Mt. Pleasant avenue? A That's right.

Q Where did you stop your car? A At the Reid plant.

Q Will you look at the map which has been marked Exhibit S. 1. You will observe Clay street across the bottom of the map and Mt. Pleasant avenue running up in the center of it. I am informed that this red block means a brick building and those marks in front of it means a porch with stairs at the southerly end. Will you indicate on the map about where you stopped your car? A This is the driveway here and I stopped here (indicating).

Q That is the open space with the numeral "33" in figures? A That is right, and I stopped a little past that, more toward the center of the driveway.

The Court: You stopped near the center of the driveway?

Witness: No, at the center of the driveway.

Q The front of your car was at the center or the rear of your car? A The front of my car was at the center.

Q And where were you with reference to the center of Mt. Pleasant avenue, were you on the east side, the west side or in the center of it? A I was on the east, what you call or should be the sidewalk.

Q You were on what should be the sidewalk? A That's right.

Q I show you Exhibit S. 11, a photograph, and ask you whether that photograph shows the place where your car stopped? A It does



and it don't. It is just about here, but it does not show the whole yard.

Q Your car was on the block pavement shown in the right of that picture, or that part of the block pavement, which is just off the right edge of the picture? A About here. There are blocks of stones there.

Q By the way, do you know what the pavement of the street is? If you do not, say that you do not. A What do you mean by pavement?

Q Is that a block or asphalt? A Asphalt.

Q Macadam? A Asphalt.

Q Will you look at this photograph, which has been marked S. 12 for identification, and tell me if that represents the building of the Reid Ice Cream plant as it was on that day? A Yes.

Q What was the answer? A Yes.

Mr. Bigelow: I offer this photograph, which has been marked S. 12 for identification.

*By Mr. McGeehan.*

Q You say that this is the building and represents it as it was that day? A Well, it is the building.

Q As to any other features, or movable objects or persons shown on the picture, you cannot say? A I was simply asked if it was the building. It is the building.

Mr. McGeehan: I have no objection to that with that exception.

Mr. Kavanagh: No objection.

(Photograph marked Exhibit S. 12.)

*By Mr. Bigelow.*

Q Now, as your car was aproaching where it stopped, or as it stopped, what happened? A Well, as I turned from Clay street into Mt. Pleasant avenue, a Pierce-Arrow was coming along with me at the same time. I would not say it was going fast, or it wasn't going slow. It was in gear of some type, second, from what I know about a car.

Q Did the Pierce-Arrow come in front of your car or in back of it? A Alongside of it.

Q On which side of it, your left or your right? A My left.

Q I do not think you have told us what kind of a car you were driving yourself? A I have a Flint with what they call a Rex top, glass all around.

Q Left-hand drive? A Yes.

Q And you were driving it yourself? A Yes.

Q And this car came along at your left? A Yes.

Q As the two cars were parallel with each other, did you notice anybody in the Pierce-Arrow? A I noticed two in the back of the car, that is, going outside of the car, following the car, two men, at the left of the Pierce-Arrow first.

Q Did the Pierce-Arrow keep on going after your car stopped and, if so, did it go past? A After I stopped at the center of the place I indicated they pulled up—on, I would say about ten or fifteen feet; most likely, passed mine.

Q How near was the front of your car after they stopped and after your car stopped, to the rear of the Pierce-Arrow? A Well, I was facing the Chevrolet. I was not to the rear of them there. They were to the left of me.



Q Well, was the rear of the Pierce-Arrow, after it stopped and after your car stopped, in front of you? A In front of me.

Q And how near was it, about, to the front of your car? A Well, the distance from my car to the Chevrolet, I am not very good in distances of feet.

Q Well, was it as far from you to me, or as far from you to some other object in the room? A I can tell you by the picture.

The Court: What is that picture?

Q I show you again Exhibit S. 11, can you indicate about where the rear of the Pierce-Arrow was after it stopped? A I have a habit of stopping my car before a separation running through the yard, separating two parts of this alley, and I always stop after I go past that separation of the alley.

Q Is the mark in the bricks showing the separation of which you speak? A Yes, the separation is shown.

Q And you stopped before you reached that separation? A Right at the separation.

Q Now, where did the Pierce-Arrow stop? A At the porch, from the separation to the porch; that is, their end fender would come out to the porch, the end of this porch.

Q The rear fender of the Pierce-Arrow would be opposite the porch? A Opposite the porch, the bottom steps.

Q Their car was out on the street, of course? A Yes.

Q What was the color, if you noticed it, of this Pierce-Arrow? A Green.

Q What happened when this Pierce-Arrow arrived? A The Pierce-Arrow was pulling

down, and two men in the back of the Pierce-Arrow, outside of this car, toward the left, and as I stopped, the Pierce-Arrow pulled ahead of me to the plant, and they ran to the front of the Pierce-Arrow, one going between the Pierce-Arrow and the Chevrolet, and one going on the sidewalk.

Q Just a minute. I do not think I asked you about the Chevrolet. Where was the Chevrolet? A Outside of the Reid plant at the foot of the steps.

Q Which way was it facing? A Facing toward my car, the opposite side of the street, which you would call the wrong side driving.

Q It was not on the opposite side of the street from you? A No.

Q Where was it with reference to the asphalt pavement or to the brick or stone pavement? A I was not observing the car so closely at the time, but, as I was off the pavement, they were also off the pavement.

Q They were off the asphalt pavement? A Yes, on the brick.

Q And how much space was between the Pierce-Arrow and the Chevrolet? A Not more than—well, I do not know the difference, but two or three men could stand abreast, that is all.

Q Between the two cars? A Between the two cars.

Q Now, you started to tell us when I interrupted that one man ran, I think, between the two cars, and one over to the sidewalk. Please continue your story. A And then I heard two shots, first one and then the other. Then I seen Mr. Condit fall, as I knew Mr. Condit. I used to pay my bills there.



Q Where was Mr. Condit? A He was about to get on the Chevrolet, one foot on the running board.

Q Had you seen where he come from? A From the office building.

Q I show a photograph of a man and ask you if it is a photograph of— A George Condit.

Q That is the gentleman of whom you just spoke? A Yes.

Mr. Bigelow: I offer this photograph in evidence.

Mr. McGeehan: I object to it on the ground that it is irrelevant to the issue.

Mr. Kavanagh: The same objection.

The Court: I will allow the picture.

(Picture marked Ex. S. 15.)

Q Was there any one with Mr. Condit that you noticed? A No, outside of the car.

Q Did you see any one in the Chevrolet? A I did.

Q Who? A Duff.

Q Is that the young man? A Yes.

Mr. Bigelow: What is your name?

A Voice: Joseph Duff.

Q You heard the two shots or a shot? A Two shots.

Q Did you see what happened to Mr. Condit, if anything? A He fell.

Q What happened, if you noticed? A Shortly after that another shot was fired.

Q Did you see any bags in any one's hands? A Not until they were thrown into the car.

Q Tell the story of what happened to the jury. You do not need my asking you all these questions. A Well, as I was stating, when they come running around the Pierce-Arrow one man there came up to Mr. Condit and I saw Mr. Condit put up his hands, I would say to ward him off, and a shot was fired. Shortly after that, maybe a minute or a minute and a half, or less than that, another shot was fired. Then I saw a bag being taken out from the side of the car where Mr. Condit was and thrown into, as the doors were opened, the Pierce-Arrow, and another man that was along the side of the car, to my right, another bag threw into the car and as they got into the car, the window was open in the rear and another shot was fired into the Chevrolet.

Q Did the Pierce-Arrow continue standing there or what happened? A They were about to start up and as I looked out of my car, which was diagonally opposite their's, Mr. Condit had fallen and they started to run over him, but reversed and stopped and started to back up and I blew my horn to watch out for my car and as I did they shot out on the sidewalk.

Q The Pierce-Arrow went on the sidewalk? A After it passed the Chevrolet.

Q On which sidewalk, on the left-hand or right-hand as you stopped, the east or west sidewalk of the street? A Well, the side where the Reid plant is, where I saw it last.

Q It went up on the sidewalk on the side where the Reid plant was? A Yes.

Q And it continued? A I don't know. I drove up to get Mr. Condit, I do not know which direction it went, but I imagine it would go to the right.





Q You say you drove up yourself to get Mr. Condit? A After they backed up I drove up to get Mr. Condit.

Q Did you get him? A I didn't. I did not leave the car because shots were being fired from upstairs.

Q What became of Mr. Condit? A Mr. Condit was assisted by a young lady holding his head and another gentleman or two.

Q Into where? A Into my car.

Q Where did you go to then? A Duff also got into my car. He had been shot, and we started up towards Clark street and as I reached Clark street a car came out that side street and stopped me and I hit him.

Q A car came out and you hit him? A A block from the plant.

Q Well, did you stop there? A No. We backed up. This car would not move or get out of the way and I had to reverse and go around the car.

Q Well, where did you go, where did you take Mr. Condit? A To St. Michael's Hospital.

Q Here in Newark? A On High street.

Q Was Mr. Condit taken out of your car there? A No. He was examined by a physican in the car.

Q Do you know the doctor? A I do.

Q Who? A Dr. Louis Davis.

Q Then what happened to Mr. Condit? A He said, "I am sorry, I cannot take him out."

Mr. McGeehan: I object to any conversation.

The Court: Well, it is immaterial.

Witness: He did not take him out of the car.

Mr. Bigelow: Dr. Davis?

Q Is that the Dr. Davis to whom you refer? A That is the doctor.

Q Well, where did you drive then, or what happened? A Well, the head quarters men came down to the hospital and we took him to the morgue on Washington street, Mullin's Morgue.

Q In your car? A In my car.

Q Did you go into the morgue? A Yes.

Q How long did you stay there? A Well, we had to wait for Dr. Martland and I understood he just left the morgue, the place we were, and he was coming back again.

Q Well, did you wait for him? A I did.

Q Did you finally see Dr. Martland? A I did.

Q Did you identify Mr. Condit's body to him? A I did, yes.

Q Now, going back to Clay street—to Mt. Pleasant avenue, rather, do you see here in the court any of the men whom you have mentioned as being there? A Yes.

Q Will you come down and point out those that you see? A There is another one missing.

Mr. Bigelow: (Indicating the four defendants.)

Q Now, look around and see if you can find the other man? A Sitting right there.

Mr. Bigelow: Indicating Boudreau.

Mr. McGeehan: Yes.

Q Now, where on the street or in what part of the car or where did you see the defendant Joseph Juliano, who has been referred to here as Big Joe? A In the back of the car.



Q When did you see him? A Right after I noticed the Pierce Arrow in the street alongside of mine.

Q That was while the two cars were moving along the street? A Yes.

Q Did you get a view of him later after the cars had stopped? A Not after the cars had stopped.

Q Or just as the cars were stopping? A Well, it was in a moving position. They passed me and he was looking out of the rear window towards Clay street.

Q I did not catch that. A He was looking out of the rear window of the car towards Clay streeet.

Q Towards Clay street? A Yes.

Q What width is that rear window approximately? Show the jury with your hands? A Well, the length of it would be close to this size here.

Q Close to the size of the witness-box? A At least that size and half the size in width.

Q Could you make any estimate as to how far his face was from you when you saw him looking back toward Clay street? A Well, the nearest distance I could give for that was the rear fender was up to my front window—the rear fender of their car was up to the front fender of my car.

Q Well, would you say that he was further from you than I am to you now or was he nearer to you than I am? A Oh, nearer.

Q He was nearer to you than what I am now? A Oh, yes.

Q About how much? A Half that distance. About there.

The Court: Do you want that measured accurately?

Mr. McGeehan: Oh, we can agree on it, what do you think it is, Mr. Prosecutor?

Mr. Bigelow: Why, I should say ten or twelve feet.

Mr. McGeehan: It is agreed that the distance indicated by the witness is ten or twelve feet.

Witness: It could not be that distance because the car is not that length.

Q Then, it was less than that? A Sure.

Q Now, will you tell me where the defendant to whom you have just referred, the one who was looking out of this rear window—

The Court: Mr. Prosecutor, where did you stand, please.

Mr. Bigelow: I stood here (indicating).

The Court: Well, for the benefit of counsel, to the table is 9 feet 3 inches.

Mr. Bigelow: The witness is correct, then, when he says it could not be that far.

Q Is the defendant to whom you have referred as the man who was looking out of the back window, the first, second, third or fourth man along there? A The first man from the left of you.

Q From me? A Yes, sir.

(Indicating the defendant Joseph Juliano.)

Q Now, where did you see the second defendant there?



(Indicating the defendant Nicholas Joseph Juliano).

A In the front with the driver.

Q Which side? A The right side.

Q That was the street side nearest you and the cars were parallel to each other? A That's right.

Q After the car stopped, did you see him do anything? A No, not after the car stopped, he stayed there, but after the shots were fired.

Q What did you see him do after the shots were fired? A He opened a door and pointed the gun up at the Reid girls that were looking out of the window.

Q You saw him open a door, which door did he open? A The right door.

Q This was a four door car? A Yes, sir.

Q Was it the right front door or the right back door? A The right front door.

Q Did he open the right rear door at any time? A Well, I would not say he opened it, but he got over the seat, facing me toward the door, whether he opened it or not, I don't know.

Q You saw him on the seat facing you, leaning toward the door, but you did not see whether he opened it or not? A I did not see him open it, but the door was opened after he faced me.

Q Where did you see the third defendant (indicating the defendant Capozzi)? A Between the Pierce-Arrow and the Chevrolet.

Q That was after the cars had stopped? A Yes, sir.

Q Did you see what became of him? Did you see him after he left the space between the two cars? A He got in the car, in the Pierce Arrow, in the back seat.

Q In the back seat on which side? A The right side of me.

Q Did you see anything in his hand at any time? A No, not in his hand.

Q Did you see him do anything? A Yes.

Q What? A After he got in the car, the window was down, he is the one that pointed the gun into the Chevrolet.

Q He pointed a gun into the Chevrolet? The window was down? A Yes, sir.

Q Now, the fourth defendant? (Indicating the defendant Barone.) Where did you see him? A On the sidewalk in front of the Reid plant.

Q Did you see what became of him? A He had the bag and got in between my car and the Chevrolet and threw it inside, inside into the car.

Mr. McGeehan: I cannot hear that.

Witness: He is the one that had a bag, got in between the Chevrolet and my car, the space, and got into the Pierce Arrow.

Q And on which side of the Pierce Arrow? A Also the right of me.

Q He came from the sidewalk between your car and the Chevrolet and got into the Pierce Arrow, is that right? A Yes, sir.

Q He must have been rather close to you, if he was between those two cars. A Yes, very close.

Q Where did you see Boudreau? A He was the driver.

Q Did you notice his hat? A He had a regular chauffeur's cap with a black tip.

Q Did you go down to police headquarters and see a line-up down there? A Yes, sir.



Q Did you see Boudreau in a line-up? A Yes, sir.

Q You picked out Boudreau in a line-up there? A Yes, sir.

Q Did you pick anybody else out in the same line-up? A I did not pick anybody else out but I—

Q Did you put your hand on anybody—

Mr. McGeehan: He did not finish his answer, Mr. Prosecutor. He said, "But I."

Witness: (continuing) But I did put my hand on another man.

Q Why did you put your hand on him? A I asked him to take off his cap that was on, Captain Brex asked them all to take off their hats.

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

Q I show you a photograph of four men and ask you if the man on whom you put your hand, but whom you did not identify, is shown in that photograph? A Number one.

Mr. Bigelow: I offer the photograph in evidence.

The Court: Do I take it there is no objection?

Mr. McGeehan: No objection.

(The same is marked Exhibit S. 16.)

Q Did you afterwards see the four defendants on trial in any line-up at police headquarters? A On a Sunday.

Q Was that before or after the line-up in which you identified Boudreau? A After.

Q Do you recall how long after? A I do not.

Q Do you recall the date? A I do not.

Q How many men, approximately, were there in that line-up? A About twelve to fifteen.

Q Were any of the men in that line-up police officers, at least, did they appear to be police officers to you? A I don't know.

Q Did anybody tell you who the defendants were? A No, sir.

Q Nobody suggested to you whom to pick out? A No, sir.

*Cross examination* by Mr. McGeehan.

Q Mr. Seigel, you live in Newark or in Kearny? A Newark.

Q And what time on Sunday did you go down to police headquarters, sometime in the afternoon? A I think it was around two o'clock.

Q And where did you spend the morning? A At my store in Kearny.

Q And were you home when you left for police headquarters, or did you leave from Kearny? A I left from Kearny with my father-in-law.

Q What time did you go to Kearny that morning? A Well, I opened the store at 8:15, if I can remember correctly.

Q Had you been down to police headquarters on Saturday, the day before, do you know? A No, sir, I was not.

Q How many days before that were you down to police headquarters when you put your hand on Bielke's shoulder, and put your hand on Boudreau's shoulder? A I am not sure how many days, I should say about two or three days.

Q About two or three days before? A I am not positive.

Q So you were very much interested in the development of that Reid case, that you had





been near there when the hold-up occurred? A Why should I be?

The Court: Just answer the question.

Q I don't know, just a matter of interest, I mean, you were interested to know that the police had arrested someone whom they thought had done it, as any other citizen would be when they saw something like that happen. A I was interested, I read the papers.

Q That is what I mean, you read the newspapers? A I did not.

Q You read the Sunday Call the day it happened, didn't you? A I did not, I don't read the Sunday Call.

Q Why, you read all the papers about that, didn't you? A I did not.

Q Your brother and your friend—your brother is your partner, is he not? A No, sir.

Q Does he work with you? A No, sir.

Q He is not associated in business with you at all? A He is not.

Q And you live in Newark—how many members of the family are there there? A Three, four.

Q Do you take the Sunday Call from your newsdealer? A I do not, the Ledger only.

Q Did you see any pictures that morning in the Ledger of the men who were charged with being implicated in that hold-up? A I did.

Q You saw those in the morning? A I did.

Q And those were the pictures of the four men who later that day you were able to pick out? A I think there were more than four.

Q There were six pictures in the paper and underneath the one picture was the statement,

"Men accused in Reid Hold-Up," wasn't there? A I don't recall that.

Q Now, that picture you looked at carefully before you went to police headquarters, didn't you? A I didn't look at it before I went to police headquarters.

Q Didn't you say you saw it that morning? A I glanced at the papers but I did not read the item, I was busy in the store.

Q Well, Mr. Seigel, you saw the pictures that morning, didn't you? A I did not read the story, no, sir.

Q I am not asking you if you read the story, but you looked at that picture, didn't you? A Yes, sir.

Q Now, as I understand it, you came east, Mr. Seigel, or west, rather along Clay street intending to turn north into Mt. Pleasant avenue? A That's right.

Q Where did you first see the car, the Pierce Arrow car that you speak of? A As I turned the saloon corner.

Q As you turned the saloon corner? A Yes, sir.

Q And what direction was the Pierce Arrow car going then? A I did not see it until it got alongside of me the same way I was going.

Q Then you saw it after it had gotten into Mt. Pleasant avenue? A Just as I turned into Mt. Pleasant avenue.

Q Now, to go a step ahead, I understood you to say that you always stopped you car before the opening between the buildings? A What do you mean by "the opening?"

Q I don't know. I am going to ask you. Didn't you say that you stopped your car always before the opening? A No, I said there is an



opening and in the center of the yard there is a separation, I stopped before the separation.

Q "Before the separation" those are the words that you used. I want to know what you mean by them. Let me show you the picture. Now, this picture does not show the whole separation between the buildings does it, but it shows most of it, is that right? A Yes, sir.

Q The separation do you mean— A No, here it is (indicating). There is a line of bricks separating the yard.

Q Oh, by that you mean the center of the opening? A That is right in the center of the opening, there is a line of bricks that runs through the yard.

Q Now, that entire opening you knew was an open driveway between the buildings is that right? A That is right.

Q You did not stop where you would be in the way of vehicles going in and out, did you? A That is where I stopped before I crossed that line, because they come out to the right and I was to the left.

Q Yes, but they go in on the back, that would be the first half of the opening, wouldn't it? A Yes, sir.

Q And you would not stop there so as to be in the way of the trucks in the morning going in and out, would you? A Many times they came out and told me to take it away after I had done it.

Q And this time do you think you might have been in the way or did you stop outside of the driveway before you got to it? A No, right there.

Q Now, as you stood there, who stopped first, the Pierce Arrow or you? A I stopped first.

Q Were you going fast? A No, I wasn't going fast.

Q You were going at a moderate rate of speed, and how far in the block were you when the Pierce Arrow got alongside of you? A I was not in the block yet, I was just making the turn when they got alongside of me.

Q Did you see them as you turned from Mt. Pleasant avenue into Clay street? A No, I did not see them, I was looking straight ahead.

Q You were looking straight ahead, and you don't know whether they were making the turn or going into the street? A Well, they may have been alongside of me as I turned or they may have turned with me, I don't know.

Q Now, the corner that you came over would bring you to a point north of the corner of where the northwest corner would be, wouldn't it? That is, as you turned you would be north of the corner across the street, is that right? A Yes, sir.

Q Now, as you came along there you were watching for traffic, weren't you? A It wasn't necessary, in making the turn, to watch for traffic.

Q Well, did you see whether any other vehicle was turning into the street at the same time that you were? A No, I did not.

Q Were you straight along Mt. Pleasant avenue when they were alongside of you first, had you gotten straightened out? A Just about straightening out from the curb when I noticed the Pierce.

Q Well, was it going faster than you or were you going faster than them? A Well, we were even for awhile and then they got past me.

Q For awhile, why, it is only about a hundred feet to that building, isn't it? A Yes, I say for awhile and then they got ahead.



Q How many feet do you think it is from the corner to the buildings? A I can't say.

Q It is a hundred feet, isn't it? A It must be more.

Q Do you think it might be two or three hundred feet? A I do.

Q Well, would you give 300 feet as your estimate of that?

Mr. Fisch: I object to that, your Honor, it is not cross examination.

The Court: What is the question?

Mr. McGeehan: I am asking him as to his idea as to what the distance from the corner to the building is and he said it might be two or three hundred feet and now I am asking him will he give his estimate as 300 feet.

Mr. Fisch: And he also said that he doesn't know.

The Court: I will allow him to answer that, if he doesn't know he can say so.

Witness: I don't know the distance.

Q You say that because you heard the Prosecutor say that? A I said that at first.

Q Now, you have gone to school here, haven't you? A Yes, sir.

Q You know what a foot is, don't you? A Yes.

Q And you are able to estimate—I do not say you need to estimate accurately, but you can estimate approximately how far it is from you to a certain point, can't you? A I think so, yes.

Q How far approximately would you say it is from the corner to where you stopped? A The saloon runs in I should say, 175 feet, the

alley next to the garage; you would have 125 feet, and a twenty foot driveway.

Q How much is that altogether? A I didn't add it.

The Court: 325.

Q So you think it is 325 feet from the corner; well, it is away over 300 feet? A Yes.

Q Would you be surprised to know that the distance is actually less than 100 feet? A Well, I said I did not know the distance.

Q You are not a very good judge of distances, are you? A No.

Q And you are not a very good judge of the distance your car was away from the other car when you saw it stop? A Approximately I can tell you but when you ask me definitely I cannot.

Q Well, do you know that from the middle of the driveway or the spot you say the front of your car was, to a point where the rear wheel of the other car would be opposite the steps, if it were in the street, is 20 to 25 feet? A The alley way, you mean?

Q From where the front of your car was to where you say the rear of the Pierce Arrow was? A Perhaps.

Q What? A Perhaps.

Q Now, you stopped first? A Yes, I stopped first.

Q How many feet do you think they went alongside of you before you turned in to stop? A I do not know; I do not know distances.

Q Of course, this other car— A You mean their car when they stopped or my car?

Q No. I will repeat it. Anytime you do not understand I will repeat the question. How many feet did their car go alongside of yours



before you turned in to stop your car? A I didn't turn in.

Q Well, you went in on the sidewalk? A Yes, I was on a level with this street.

Q Well, if you were running along the level of the street you would have to turn in to get on the sidewalk? A No, the sidewalk and pavement is together.

Q There is a curb line on Mt. Pleasant avenue? A By the garage.

Q I mean from the corner on? A Yes.

Q How far were you riding from that corner? A Since I got to where; to where the curb ended.

Q No, as you went from the corner how far were you riding from the curb? A About a foot.

Q About a foot? A Yes.

Q About that far from the curb? A That is all.

Q You continued along a foot from the curb, is that right? A Yes.

Q Well, even then to get completely off the street when you did come to the point where you crossed over the inch or inch and a half curb you had to turn off into that space? A Yes.

Q Now, I am going to ask you the question for how many feet did their car ride alongside of you before you turned off the street and enter that place where you parked? A There is a curb line; up to the time he come, I believe, to the entrance of the Reid plant and from that curb started one straight sweep.

Q You do not understand my question. You say a Pierce Arrow car ran alongside of yours for some distance along Mt. Pleasant avenue? A Yes.

Q Now, I want to know what distance it did run alongside of yours, how many feet, about? A Up to about the beginning of the plant yard.

Q So it ran alongside of you all the time to that point? A Not alongside, no, they were ahead of me.

The Court: Do you want to know how long they were parallel?

Mr. McGeehan: Yes.

Witness: I should say past the saloon door.

Q How many feet did they run parallel? Do you know what alongside of means? A Yes.

Q For how many feet were they alongside of you before they got ahead of you? A Just as I turned the corner.

Q That is the only view you got into the car from the side? A Yes, at that time.

Q That car was going faster than yours, was it? A Yes, it was going faster.

Q Where were the men while it was going faster along that street? A What men?

Q Didn't you say you saw two men running? A Two.

Q Well, they are the men I am speaking of. A Yes.

Q Where were they when it was alongside of you? A I didn't see when it was alongside of me, no.

Q Did you see those men at all before you first saw the Pierce Arrow car? A No, I didn't.

Q So, that while you were turning into Mt. Pleasant avenue, while you were turning in, you did not see two men on the corner; you did not see two men running or walking toward the Reid place ahead of any car? A No.





Q Now, when did you first see those two men? A When they started to pull up apast me.

Q When they were passing you? A Yes.

Q Now, where were the men with relation to the Pierce Arrow car then, in front of it? A In the back, to the left of me, in back of the Pierce-Arrow.

Q In back of you? A Yes.

Q That is when the Pierce Arrow started to pass you? A Yes.

Q Well, when it started to pass you you could not see what was back of you? A Well, they were keeping up with the car.

Q Walking or running? A Well, it was not a walk or run; I would say a brisk walk.

Q And they were keeping up with the Pierce Arrow? A Well, not keeping up, the Pierce Arrow was a little ahead of them.

Q You were following an even distance from it all the way until they got to the Reid place? A No, before they got to the Reid place they started to run.

Q For some distance while they were passing you they were running? A A fast walk.

Q So the car was able to pass you going no faster than these men could walk? A Yes.

Q What gear were you in? A I was in high.

Q Your car throttles down pretty well? A Down to three miles an hour.

Q How fast were you going along that street? A Well, I should say ten miles, twelve miles at the most.

Q Do you mean to say these men could walk twelve miles an hour? A I don't know.

Q They had to be walking faster than that to go past your car? A Yes.

Q So your recollection—your memory is that they went apast your car while your car was going twelve miles an hour, is that right? A Yes.

Q You have a good memory for what you see? A I think so.

Q And a good memory for the speed at which your car was going? A I didn't pay any attention to the speedometer. I am only approximating it.

Q That is your judgment of it? A Yes.

Q And you memory is that they were walking when they passed you? A Not a walk; it was a fast gait.

Q Well, wasn't it a fast walk? A Between a walk and a run.

Q Well, didn't you say a fast walk; a fast gait? A I said between a walk and a run.

Q Didn't you say a fast walk, a fast gait, didn't you? A I said between walking and running.

Q It was not running, was it, anyway? A It was running but not sprinting.

Q You know the difference between running and walking, don't you? A I said it was not a walk or a run, it was a fast gait.

Q Swinging the legs out but not running, is that right? A Yes, sir.

Q Now, you were looking ahead, intending to turn in off the street, weren't you? A Yes, sir.

Q And at no time was the Pierce Arrow car only a foot from the curb, was it? A The Pierce Arrow a foot—I was a foot from the curb.

Q I know that very well, just listen to the question. At no time was the Pierce-Arrow car only a foot from the curb? A No, sir.



Q How far in the street was that while it was passing you? A I don't know.

Q Approximately.

The Court: Was it close to you?

Witness: It was close to me, probably two people could pass between it, that's all.

Q Two people could pass between? A Yes, two abreast.

Q Do you think it might have been four feet or three feet? A That is all the distance I can give you, two people could pass between.

Q It was about in the middle of the street, then, was it? A No, that would not be in the middle of the street.

Q How wide do you think that street is? A I imagine it is about 25 feet, a street ordinarily is 25 feet.

Q Now, as that car went by, the only glance you got of the first man you say you saw, Joseph Juliano, is as he looked out the rear window? Is that what you say? A That's right.

Q And that is the only time you saw him throughout the whole thing? A That's right.

Q And you saw him while you were moving, didn't you? A Yes, sir.

Q You saw him while nothing was in front of you, but you intended to turn off and park your car, didn't you? A That's right.

Q And you got just an instantaneous glance at him, didn't you? A It was not instantaneous, he kept looking, and I was right alongside of them, and they were ahead of me, so it was not instantaneous.

Q Now, you said that when they were alongside of you—have you told me yet how many feet they were alongside of you, in distance, at all?

A I said up to the saloon door on Mt. Pleasant avenue.

Q And where is that? This is the map. Can you help us out by showing us where the saloon door is on Mt. Pleasant avenue? A Well, there is a window, then there is a door, and that leads into a saloon.

Q Where is it, the jury may not know where that window and door is? A What represents the saloon?

Mr. McGeehan: This, I can say, Mr. Prosecutor, represents the saloon?

Mr. Fisch: Yes, the corner.

Q Do you know where they passed you? A There is a door and a junction door, then there is a window, and then there is a door—

Mr. Fisch: I have a photograph of it, which may help you, Mr. McGeehan.

Q About the middle of the left side, as you look at the map, as you look at the triangular building, that is about where, in the middle of the building, that machine passed you, is that right? A Yes.

Q Now, how many feet ahead of you did they get when you saw this man looking out of the window? A Right there is where I saw him looking out of the window.

Q Well, was it a foot or twenty feet or fifteen feet or how much ahead of you when you saw this man looking out of the window? A I cannot tell you, I did not expect anything to happen and I cannot be so accurate.

Q Oh, you did not expect anything to happen, and you did not pay close attention to that man,



did you? A Not close attention, just looked at him.

Q Just glanced? A Yes.

Q Now, Mr. Seigel, there is one thing I want to get, what I am driving at is this: If the car was alongside of you here and it was going faster than you and passed you and you saw a man looking out of the rear window, it must have been ahead of you, and I want to know how far ahead of you it was, that's all. A As I said before, the rear end of their fender was to the front of my fender, that is the distance they were ahead of me.

Q Then, they were from two to five feet, would you say, to the left of you, the course of their car and the course of your car, was about two feet to the left of you, and you were separated and they were to the left of your car? A Just as I said, two people could probably get between my car and their car. The distance I don't know.

Q What kind of a car was yours? A A Flint.

Q A coupe? A No, touring car.

Q A touring with an all-winter top? A That's right.

Q Did you have the top up? A Well, it is what they call a Rex top, a California top.

Q It is a permanent top with sliding glass windows? A Not permanent, no, you can take it off if you want to.

Q Well, the top was up? A Yes.

Q And were the windows up alongside of you? A There was no windows—

Q Well, was the glass either up or down or sideways as they were alongside of you? A Yes, the windows were there open.

Q No glass to the left of you? A You do not understand the California top, if you open one window, the other closes.

Q Well, whatever it is, a California or a Jersey or any kind of top, there is such a thing as an open space or glass to your left? A Yes.

Q I want to know which it was. So if you put your hand out to your left, did you touch glass or was it open? A Open.

Q Now, as you looked at this car, then, to see that man looking out of the back, you were situated on the left of your car, weren't you? A Yes.

Q And the front wheels of your car were about opposite the rear wheels of that other car? A Yes.

Q And this other Pierce Arrow was a large bodied car? A Yes, it was.

Q So the body of it would extend back of the wheels to some extent? A What part of the body?

Q Well, the rear end of the body. The back of it. Do you know what the back of the body of the car is? A Yes.

Q Where a window is that a man could look out of? A Yes.

Q That is some distance back of the wheels, isn't it? A Surely.

Q Is that right? A Yes.

Q Now, so that that window that you say a man looked out of was almost directly to your left, wasn't it? A Not directly; diagonal of my car.

Q Yes, diagonal to your left? A Yes.

Q So that in looking out that window there was a glass up in the rear, was there, in the rear of that car? A The Pierce-Arrow?



Q Yes. A Yes.

Q It was a glass window? A Yes.

Q And that window is what the man looked out of? A That is right.

Q Was he on the right or left side or middle of the car? A In the middle of the car.

Q Did you see what other men were in the rear with him? A There were no other men that I could see.

Q Well, did you look carefully enough to see whether there were other men or not in the rear? A No, all I saw was his face.

Q Well, could you see that he was sitting there in the back seat alone? A I don't know. All I saw was him.

Q You did not see anyone else even without being able to tell how he was dressed or that another person was there? A No.

Q All right. Just this one man. Now, you continued moving along, didn't you? A That is right.

Q And if you saw that car about at the door of the saloon you did not continue looking diagonally to your left over to that window, did you, you did not continue to watch that window, did you, driving your car? A Well, naturally I had the whole view before me, I had everything right before me.

Q Now, sir, I show you Exhibit S. 6 and point to what appears to be two small cars standing. Would you say that the forward one of those two is in front of the door which you spoke of? A The forward one? No, the rear one is.

Q You think the rear one is? A Yes.

Q All right. Both of them are close to each other? A Yes.

*Philip Seigel, cross.*

Q Now, the place where you saw a man looking out of the rear window was somewhere between that point and the pole that appears on the right hand side of the street as you look at it, is that right? A What pole?

Q Oh, an electric pole. A That is at the Reid plant already.

Q Well, we will come to that. If you will just listen to my questions and not try to tell me where things are— A Well, you are trying to tell me where things are.

Q No.

Mr. Fisch: I do not think that is called for.

Mr. McGeehan: I ask that the witness' remarks be stricken out, and will you please answer the question?

Q (Question read as follows.) Now, the place where you saw a man looking out of the rear window was somewhere between that point and the pole that appears on the right hand side of the street as you look at it, is that right? A It is not.

Q Do you understand the question I just asked you? Do you understand what I asked you? A Yes.

Q I show you the pole. A Yes.

Q And I show you the door, and my question is the point at which you saw the man look out is somewhere between that door and that pole, is it not? A Somewhere between there, that is a different question.

Q That is the same question. A You said at the pole.



*Philip Seigel, cross.*

Q Now, how far before you got to the pole was it that you saw this man look out? A At the door I showed you on the picture.

Q Isn't the door the point where the car was alongside of you? A Oh, no, it was ahead of me there.

Q All right. So that is where you saw him look out? A Yes.

Q Now, how many feet did you go past that point when you turned off the street on the sidewalk? A At the pole you showed me there I turned off.

Q Now, is the pole the other side of the driveway? A Just as you go to the driveway.

Q Did you have to go around that pole? A No, in front of the pole.

Q Now, was that gasoline station there? A Yes. You mean at the Reid plant, or the corner?

Q Yes. A Yes, it was there.

Q And aren't you mistaken when you say you did not have to go around the pole to get into that driveway? A No, I did not have to go around the pole.

Q Well, now, you may be mistaken about that? A Yes, I may.

Q I show you this other picture, Exhibit S. 4, and ask you whether that does not show the pole put on what would be the southerly side of the driveway? A No, I didn't have to go around the pole.

Q Is the pole located where the two little round marks are on this map? A Well, it is nearer.

Q And the southern end of the driveway? A Well, it is nearer to Clay street than Clark, and I am going up toward Clark.

Q Wouldn't you have to go around the pole? A Well, I am going—I am thinking you are going inside of the pole, I do not know what you mean.

Q By around I mean to and to the other side of the pole and around it as distinguished from going to where you were without going around that pole.

Mr. Fisch: I object to that as not being clear, unless the question embodies which side of the pole.

The Court: Whether he went to the right or the left of the pole.

A To the left, past the pole.

Q And when you went to the left of it, and then turned to your right, you were going around the pole, weren't you? A Yes.

Q You had to watch that pole to get into the point where you say you parked, didn't you? A No, I did not, I did not drive in the yard.

Q When you went there you told us that you got in there with your front wheels past the center of that drive, is that right? A Yes, sir.

Q So that your wheels were completely off the street when you were there? A The front wheels.

Q Didn't you testify that all your wheels were off, on direct examination? A I did not.

Q You were sure of that? A Positively.

Q So that you stood diagonally, then, didn't you, on to that driveway? A Yes, just crossways, not straight or in, but as you drive up to a plant.

Q You were not facing the Chevrolet car, then, that was in front of the porch, were you? A Not directly, just the least bit off.





Q A little bit off? A Not directly.

Q How far out in the street were your wheels, your rear wheels if your rear wheels were not off the street, were they in the street? A Oh, all I remember is the left rear wheel was just the least bit off the line of the street, that was all.

Q Was the left rear wheel in the street or not? A It was and it was not, it was just off the line.

Q So your car was practically, then, all off the street, wasn't it? A The same as the Chevrolet.

Q And that is what you said on direct, isn't it? A Yes, sir.

Q Now, in order to get in that position and still keep on your half or the half you say you always went on, you had to make a pretty good turn there and turn again to the left, didn't you? A No, sir, that is the reason my car was that way, because the pole was there, otherwise I would have been straight.

Q Did you back up after getting there? A No, sir.

Q You turned right around? A Yes, sir.

Q Then, you were pretty close to that pole, weren't you? A The rear end may have been.

Q Now, getting into that position you had to pay some attention to your driving? A Well, not if you go there every day as I do.

Q Well, you cannot be watching a car and a man in the window of a car and make that turn and stop correctly, can you?

Mr. Fisch: I object to that as argumentative.

Q You did not look at a man in the window of a car and make that correct stop, did you? A I did not then, things were happening too fast.

Q Things were happening fast as you were doing that? A Just as I was doing that.

Q Was there any shooting as you were making that turn in there? A I was in neutral when I heard the first shot fired.

Q You were just about in neutral then, were you there? A Just as the first shot was fired.

Q You were attending to your machine and shutting off the motor? A It was not shut off.

Q Where were you looking before you heard the first shot? A Just looking up to the other car.

Q You were still looking at the other car? A I was still looking at the car, what a nice plate it was; the number of the year, 1926, was the number of the plate.

Q When had you seen that plate, when did you look at it and notice it and see that it was a beautiful plate? A When I was looking at the man in the car.

Q You noticed that, too? A Yes, sir.

Q And you took the number of the car? A I didn't take it, I remembered it, 1926.

Q But you did memorize the license number of that car for the police, didn't you? A Yes, 1926.

The Court: The number.

Mr. Fisch: The witness said that was the number.

The Court: I understood he was speaking of the year.

Witness: No, that was the number 1-9-2-6.

Q Was that the license number, New Jersey, 1926? A Yes, sir.



Q And then you noticed the significance or the peculiarity of the license being the same number as the year, 1926, is that right? A Yes, sir.

Q When did you notice that first? A When I noticed the man in back of the car.

Q That was when he passed you, was it? A They were starting to pass me just when I noticed the number.

Q You looked at that and then you looked at it again, I suppose and said, "It is a peculiar thing"— A What do you mean my peculiar?

Q That it was a peculiar number on the license? A Not peculiar, I knew it was the year we were in now.

Q But you looked at it closely to see the number? A You don't have to look close, you simply look to see the number, 1926.

Q You looked at that closely and noticed it exactly to see what the number was? A Yes, 1926.

Q And you did that as the car was going past you? A Yes.

Q How far past you was it when you saw this license number? A I said, the distance between the rear fender and my front fender.

Q And that is when you saw the man looking out of the window? A Yes, and I saw the plates, too.

Q You cannot look at both, can you? A Yes, you can.

Q While you saw that man's face at the rear window at the same time you were looking at the license number and noticing what it was and thinking of it being the same as the year, is that right? A That's right.

Q Well, it was strange to you to see the license, 1926, the number bearing 1926, and then

you saw a man looking out of the rear window of a car, wasn't it? A There was nothing strange about either one.

Q You said it was strange and that is why you remembered the number, because it was the same as the year. A There was nothing strange.

Q Well, use your words, whatever it was, funny, is that what you said? A Not funny, no, sir.

Q Then what did you say? A It was odd to get the same number as the year.

Q You thought it was odd that the year number was the same as the year? A Yes, sir.

Q And you looked at it? A Yes, sir.

Q So then you must not have been looking very closely at the man who glanced out of the window—

Mr. Fisch: I object to that.

Mr. McGeehan: I will withdraw the question.

Q Then you did not look closely at the man at the window while looking at the license?

Mr. Fisch: I object.

The Court: Overruled.

A I did look at him at the same time.

Q And that was the only look that you got at that man and the pole? A What do you mean the only look?

Q The only look you got at the defendant, the man whom you say was the defendant Juliano? A At that time, yes, sir.

Q You did not get any other look at him? A No, sir.



Q Now, by the way, at headquarters you did not take an instant to pick out these five men, did you? A It didn't take me long.

Q You went in and you said, "One, two, three, four, five" and out? A Nothing of the kind.

Q Pretty nearly as fast as that, wasn't it? A Nothing of the kind.

Q Was it done so that Captain Brex expressed his amazement as you did it in the presence of a lot of people? A That was only newspaper talk.

Q Oh, it was newspaper talk, you saw that in the paper? A Yes, sir.

Q But you did it pretty rapidly? A Not very rapidly, I walked in and looked the line over and I walked to the back of the room and then I made my identification.

Q You picked them out that way? A After I made all this hesitation.

Q How did you pick them out, did you put your hand on their shoulder? A Yes, sir.

Q Did you put your hand on the shoulder of any other man in that line-up? A No.

Q Did you put your hand on the shoulder of Boudreau? A Yes, sir.

Q Did you put your hand on the shoulder of a man named Bielke? A Not on his shoulder, on his arm.

Q Didn't you so testify in your direct examination? A I put my arm on his arm.

Q What was that for? A I asked him to take his hat off.

Q Did the men whom you saw have hats on or hats off at the time of the hold-up? A Hats on.

Q They had hats on, and to make it emphatic, none of them were there without hats, were they? A No, sir.

Q Now, this man who is number 1 in this State's exhibit, you looked at him, didn't you? A Where?

Mr. Fisch: Show him the exhibit, please.

Q Now, this man number one in the State's exhibit you looked at him; first of all, you looked at him? I am speaking of Bielke? A Yes.

Q That man had his hat on and you would not say whether he was or was not the man until he took his hat off? A That is right.

Q And you say that is why you put your hand on him, is that right? A Yes.

Q Now, what made you think you could identify him better with the hat off than with it on, if you had never seen any of the men at the hold-up except with hats on? A You said that, I didn't say that.

Q Now, I do not know, maybe you didn't. A No, I didn't.

Q A few questions back, didn't you say that they all had hats on? A Yes, and you said that is right. I didn't say that.

Q Now, did I ask you or am I wrong? Tell me. I may have a very bad memory. Did I ask you a few questions back did these men whom you saw at the hold-up have hats on or not, and didn't you say yes, all had hats on? A You answered that, I didn't.

The Court: What is your answer now?

Witness: They had hats on, and when they ran for the car, they had them off.

The Court: Just a minute. Do not get fresh, you are going to answer questions.

Q Then you deny that you answered that particular question? A Yes.



Q And say that I answered it for you? A Yes.

Q And do you remember my saying, to make it more emphatic, right after, that none of the men had their hats off when you saw them; do you remember my asking that question? A Yes.

Q Do you remember your saying that it is right? A I don't.

Q You deny that you said that? A Yes.

Q At any rate, you say that you asked this man Bielke to take his hat off, is that right? A That is right.

Q And that is why you put your hand on him? A That is right.

Q Isn't it true that when the defendants were arrested and this group of men were arrested that you put your hand on and identified a total of six men? A No, I only identify two. I didn't identify them. I picked out Boudreau. There was two different line-ups.

Q Did you just begin to say "I only picked out two?" What two was it you identified.

Mr. Fisch: I object to that. He corrected himself.

The Court: He corrected himself.

Q Go ahead. A There was one line-up they had Bielke and Boudreau and in the other line-up they had all of them in. In the first line, I picked out Boudreau and walked up to Bielke and asked him to take his cap off.

Q How many men were in that line-up when you did that? A I judge about ten or twelve.

Q And what made you go up to Bielke and ask him of all those people to take his hat off? A I simply wanted to see what he looked like with his hat off.

Q Did the police say anything at that time that the two men that they thought were in it were Boudreau and the man who was Bielke? A No.

Q Did you know before you went in there that the two you were going to be asked to pick out were Boudreau and Bielke? A They didn't tell us how many they had.

Q Did you know something about Bielke before you went in there, that made you go up to him and say, "Take your hat off," or put your hand on him, was there anything? A No.

Q Are you sure? A No.

Q Just a coincidence, is that right? A Yes.

Q Did he look like one of the men that were in the hold-up to you with his hat on? A I was not positive.

Q You were not positive, but he looked like one, didn't he?

Mr. Fisch: I object to that. That is not what the witness said.

Mr. McGeehan: I am asking him.

Q (Question read.) You were not positive, but he looked like one, didn't he? A I was not sure whether it was or not.

Q You were not sure, but you thought he was one, didn't you? Didn't you, Seigel? A Well, at the time I asked him to take his cap off, yes.

Q And it was because you thought it was that you put your hand on Beilke, wasn't it? A Yes.

Q You didn't even know Boudreau before this? A No.

Q And you did not know that Bielke and Boudreau were pals? A No.



Q But of all those men there, he looked to you then like one of the men you saw in the hold-up with Boudreau? A Until he took his cap off.

Q Now, I show you the Newark Morning Ledger of Sunday, October 17, 1926, and ask you if this is the group or these pictures are the ones you admitted having looked at before you went down to headquarters? A Yes.

Mr. McGeehan: I ask that that be marked for identification. I will submit it again as a picture alone, not the whole paper.

(Paper marked D. 1 for identification.)

Q Now, as you turned in there, you just had got your machine in neutral and you heard a shot fired, is that right? A That is right.

Q And from the time that you heard that shot to the next shot, will you describe with your hands how long that interval was? Just make one clap to represent the first shot and another to represent the second shot.

(Witness claps.)

Q (Counsel claps.) That quick? A Yes.

Q And at the time you looked there, just what was the picture that you saw, the Pierce Arrow was standing still? A The Pierce Arrow was standing still.

Q And the Chevrolet was standing still? A Yes.

Q Which way was the Chevrolet facing? A Toward Clay street.

Q And the other machine facing the other way? A Yes.

Q Now, at that time could you see who fired either of these shots? A No, sir, I couldn't.

Q Well, did you look up when the first shot was fired? A Yes.

Q Well, if you looked up when the first shot was fired, you were looking at that scene? A That is right.

Q And yet you couldn't see who fired the second shot? A No.

Q You couldn't see any flash of a revolver? A No.

Q You could not see any smoke? A No.

Q Could not see any effect of any shot? A No, nothing at all.

Q What men were in your view at that time? A Mr. Condit and Capozzi.

Q And where was Condit? A One foot on the running board.

Q Going into the Chevrolet or coming out? A Going in.

Q And Capozzi was in your view? A Yes.

Q Capozzi was where? A Right by Mr. Condit.

Q Nearer to you or further than you? I mean towards you or away from you with respect to Condit? A Away from me.

Q So Condit was between you and Capozzi, the man you say is Capozzi, is that right? A No, they were between the Pierce Arrow and the Chevrolet.

Q Well, when they were between the Pierce Arrow and the Chevrolet you could see between them, couldn't you? A Yes.

Q Can you tell us now whether the man you say was Condit was nearer to you, or the man you say was Capozzi was nearer to you? A Well, Capozzi was nearer to me.



Q Did he have his back towards you? A Not the back, side.

Q Which way was he facing, the Chevrolet or the Pierce Arrow? A He was facing the Chevrolet.

Q By the way, if Mr. Condit was entering that car the Chevrolet door was open, wasn't it? A It was not.

Q You mean the door was closed? A Yes.

Q How many doors were on the Pierce Arrow? A Two on that side I was on.

Q And you observed them? A Yes.

Q Were those doors open or closed? A The back door was open; the front door was closed.

Q Now, that back door opened out? A Out to the street, yes.

Q What? A It opened out.

Q I mean it swung outward on its hinges? A When you mean it was open?

Q I will withdraw that question. Was it on the left or right side of the car the Pierce Arrow door was open? A When was it open?

Q Didn't you just say now when I asked you if the Chevrolet door was closed and you said the rear door on the Pierce Arrow was open? A I didn't understand your question.

Q Didn't you say, not in answering a question, but volunteering that the rear door on the Pierce Arrow was open? A After the shots were fired.

Q Now, for the moment—I would like you to tell us what you saw when you looked out and you said you saw Condit with his foot on the running board and the Chevrolet door closed and you saw the man you say is Capozzi in between those two spaces? A Yes.

Q And that he was nearer to you than Condit was and that his side was towards you, and he was facing towards the Chevrolet, is that right? A That is right.

Q Now, you also said the Pierce Arrow door was open, was it or was it not? A Not at that time.

Q Were any doors on the Pierce Arrow open then? A No.

Q Had you seen the door open and close? A When?

Q Up to that time had you seen any doors open or close? A No, sir, I didn't.

Q So, if the defendant, the man you identified as Capozzi, when you looked out was nearer to Condit you have not seen how he got over to you? A How he got to the Chevrolet?

Q The man that you have identified as the defendant Capozzi, when you looked up, was nearer to you than Condit, you had not seen how he got there, had you? A How he got to the Chevrolet?

Q How he got to where he was when you looked up? A By running around to the front of the Pierce Arrow.

Q Well, you must have judged that, didn't you, you guessed that from where you saw him, is that right? A No, I saw him, I saw the two of them coming running around.

Q You saw the two of them coming running around, you did not continue to watch them, did you? A Yes, I continued to watch.

Q Didn't you look away when you were putting your car in neutral? A No, I did not look away.

Q Now, you say you saw two men run in front of the Chevrolet then? A No, in front of the Pierce Arrow.





Q As I understood your direct testimony one went between the cars and the other went along the sidewalk? A Yes, sir.

Q Now, you did not say two men ran in between the two cars as Boudreau testified, did you?

Mr. Fisch: I object.

The Court: Sustained.

Q You did not see two men run in between the cars, did you? A I did.

Q Well, then, did two run between the cars and one alongside of the Pierce Arrow? A No, they went, two between the cars and Ruff stopped and Barone went on the sidewalk in front of the Chevrolet.

Q Listen, Mr. Seigel, I want you to answer this question, am I correct in understanding your testimony that two men ran in front of the Pierce Arrow, one ran between the two cars and one went to the sidewalk, alongside of the Chevrolet? A No, sir.

Q Is that what you testified? A No, sir.

Q Will you tell us what you did, then? A That they ran in front of the Pierce Arrow between the Chevrolet and Pierce Arrow, one going in front of the Chevrolet radiator on to the sidewalk that way.

Q You mean that both went between the cars and one kept on until he got around the front of the Chevrolet? A That's right.

Q You did not say anywhere in your testimony, up to the time I mentioned what Boudreau had said, anything about the two running between the two cars, did you? A No, sir.

Q Why not? A I wasn't asked.

*Philip Seigel, cross.*

Q Weren't you asked on direct whether two men had run? A Not where they had run, where they came from.

Q Where they went? A Yes, sir.

Q But you did not think you were asked anything that would bring that out, is that right? A I didn't get that question.

Q You did not think any of the Prosecutor's questions called for your telling where the men ran, did you? A No, sir.

Recess from 1 to 2 P. M.

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AFTER RECESS

Continued pursuant to adjournment.

Present, counsel as before stated.

PHILIP SEIGEL resumes the stand.

*Cross examination* (continued) by Mr. McGeehan.

Q Now, when you say you saw two men run between the two cars, which two do you say that they were? A Capozzi and Barone.

Q And who was the one that ran around the back or the front as you say of the Chevrolet? A Barone.

Q And did you watch where that man who ran around the front of the Chevrolet went to? A No, I didn't watch him. I watch Capozzi.

Q Then you did ont see the other man, where he went to? A Not after he went in front of the Chevrolet.



*Philip Seigel, cross.*

Q Then the only time you saw him was when he was running through there, is that so? A At that time, yes.

Q Well, when did you next see that man? A When he come back again the same way with the bag in his hand.

Q And where was he then when you saw him? A Between my car and the Chevrolet.

Q Were you watching him or were you watching between the two cars? A Between the two cars.

Q And then you did not watch him? A Not until I got sight of him running between my car and the Chevrolet.

Q And he was running then? A Yes, he was running.

Q You were pretty much excited, weren't you? A A little.

Q You were scared? A I did not have a chance to get scared. It all happened so quick.

Q Well, you said you were scared on your direct examination? A Upset, not scared.

Q What? A I was a little upset, but not scared.

Q Well, you used the word scared in your direct? A I do not remember.

Q And when you were upset—this all happened very suddenly? A Yes.

Q From the time you heard the first shot until you heard the second shot was a matter of a couple of seconds? A That is right.

Q And when you heard the second shot, was the car already moving or was it standing still? A Standing still.

Q How soon after that second shot did it move away? A After the third shot was fired.

Q Then you heard three shots before the car moved away? A Yes.

Q You heard three? A I heard three shots, more shots were coming from upstairs.

Q Before or after the car had moved? A At the same time.

Q At that time, were the men whom you saw connected with the Pierce Arrow yet in the Pierce Arrow? A Yes.

Q Did they get in before it moved away? A It started as the last man got in the door.

Q Now, when did that Pierce Arrow door open? A When the Pierce Arrow started up.

Q Well, which door did the last man who went into the Pierce Arrow enter through? A The end door, second door.

Q On the left or right-hand side? A On the right-hand side of their car; left of me.

Q That is between the two cars? A Yes.

Q Right? A Yes.

Q And by the two cars I mean the Chevrolet and the Pierce Arrow? A And the Pierce Arrow.

Q How many men entered that door when it opened? A Two men.

Q And did they enter at the same time or not? A No.

Q Who opened that door? A As I said before, I don't remember, I did not see who opened the door, but I did see Juliano lean over toward the door facing me.

Q Which Juliano? A Little Juliano.

Q You know the names of these men perfectly? A Now I do, yes.

Q You have talked over this case many times with the police? A Not with the police.



Q Well, I mean the detectives; they have questioned you many times? A Yes, I have been questioned.

Q And you have become very familiar with the names of the defendants? A I have.

Q And you have become very familiar with the story you are going to tell here? A Just what I saw.

Q Well, what you were going to say on the stand, is that right? A Yes.

Q And when you looked forward at the cars ahead of you, the only times you saw Barone were what you have just told us, is that right? A Yes.

Q The man you say, or identify as Barone? A Yes.

Q Now, the man that you say was young Joe Juliano, as far as you know, that man was never out of that car, was he? A He was.

Q Did he get out of the car? A On the running board.

Q Didn't you say that when the two men got into the car, it was then already moving? A It had started, but he was already out on the running board.

Q Well, didn't you just say he got out on the running board after the two men got into the car? A Yes, when the car started up.

Q And that is when the two got in the car? A Yes.

Q And didn't you say it was after that, to wit, after you say the two men got in and the car had started, that the men whom you allege was young Juliano got out on the running board? A As they were going in, he got out.

Q And the car was started off?

Mr. Fisch: I object to the witness not being permitted to finish his answer.

Q Now, is there anything more you have to say to answer the questions I asked you? A Just as he was on the running board as they were getting in.

Q And the car was moving then, you say? A It had started.

Q Well, if it had started, it was moving. A Yes.

Q Now, as that car moved, which way did it move? A Up toward Clark street.

Q That is away from Clay street? A Yes.

Q And when it moved toward Clark street, as soon as it moved, there was between you and that car the Chevrolet, wasn't there? A Yes.

Q And when it moved towards Clark street, as soon as it moved, there was between you and that car the Chevrolet, wasn't there? A Yes, sir.

Q So, you could not get a very good look as it was moving—what word did you use—not scared, but what—

The Court: Upset.

A Upset.

Q You were upset and the other car was between yours and then you could not get a very good look at that man whom you saw step out on the running board, could you? A That other car was not between mine and theirs, mine was in front.

Q But it was after the other car moved? A Not between mine, no.

Q As it moved forward wasn't the Chevrolet coupe between you and within your line of vision



toward that other car, the Pierce Arrow car? A No, sir.

Q It was not? A No, sir.

Q What did you see this man do when you say he got out on the running board? A Point his gun up at the girls in the window.

Q Did you see the girls in the window? A Yes, I saw the girls.

Q You did see them? A Yes, sir.

Q Before or after he did that? A As he did that I looked up and saw the girls.

Q When you got out and saw a man point a gun up you looked up there? A Yes, sir.

Q And you saw some girls? A Yes, sir.

Q How many girls? A If I recall correctly three.

Q Three girls hanging out of the windows? A Just looking out.

Q Are you pretty sure there were three? A Yes, sir.

Q Were there more than one? A More than one, yes.

Q And when you looked up there you naturally took your eyes away from that man that you saw step out? A Yes, sir.

Q And you did not get more than a quick glance at him? A With the gun in his hand.

Q And that was a quick glance? A Yes, sir.

Q How was he holding on to the car as it moved? A He was not holding on, he was in the door, the door was part open and he was on the running board holding the door.

Q The door was only part opened? A Yes, sir.

Q Which way did that door open, were the hinges toward the rear of the car or the front of the car? A It opened towards the front, towards his front.

Q Well, did it open towards the radiator or the rear? Did it swing toward the front or away from the front? A As the door opened it swung towards the radiator.

Q So that the hinges of it were towards the radiator, on that end of the door? A Yes, sir.

Q Is that right? A Yes, sir.

Q Now, he hung on that door, did you say? A He did not hang on, his hand was on.

Q Held on to the door? A Yes, sir.

Q Did he get completely out of the car and on to the running board or only stick his head out? A Completely out.

Q And stand out on the running board? A Stand out.

Q Then he was facing mostly forward, wasn't he? A Yes, that is not completely forward.

Q Facing forward holding on to something with his left or right hand? A Left hand.

Q So that made him face forward, did it not? A Yes, sir.

Q And then when he looked up you got a side glance of his face? A I did not see him look up, I saw the girls, I looked up when he was looking.

Q Didn't you see him look up? A No, I saw his arm raised, that is what made me look up.

Q And you did not get a look at him looking up? A Just as he opened the door.

Q But you did not see him looking up and his arm raised? A No, I did not see him looking, I saw him look at the same time that I saw the arm raised.

Q You saw just the arm raised up then, didn't you? A Yes, sir.

Q You did not see him looking up? A No, sir.



Q You did not see his face or head at all then, did you? A I only saw his face when he got out of the car on the running board.

Q Then you saw his arm raised up? A Yes, sir.

Q Was his arm up like that? (Indicating)? A Yes, sir, it was straight up.

Q Well, that kept his face hidden, didn't it? A Why, that is why I say when he raised his hand I did not see his face.

Q And then, the only glance you got was when you saw that man stepping on to the running board and then you saw him put his hand up, is that right? A During this time of the gun play.

Q That is the only time you saw him, too, isn't it? A No, sir.

Q When had you seen him any time? A As he was leaning over to open the back door or when I thought he was going to open it any way.

Q You did observe him then? A Yes, sir.

Q Isn't that when you say the shots were being fired? A Yes, sir.

Q And isn't that when you say you were watching the men run around the back of the car? A The men around the back of the car?

Q Pardon me, the front of the Chevrolet? A Yes, sir.

Q That is also when you saw Mr. Condit between the two cars? A Yes, sir.

Q And that is also when you saw the man that you say was the defendant Capozzi between the two cars, is that right? A Yes, sir.

Q So that when you were watching all these other things in that brief space of time (counsel indicates by a clapping of the hands) could not

have gotten a very good look, you did not get a very good look at the man you say was young Joe Juliano, did you? A As he leaned over, I did.

Q But he leaned over when all these things were happening, you say? A No, as the money bags were thrown in he leaned over as he came there to the car.

Q Weren't the things that you call money bags being put in all by that same time? A No, sir.

Q How many bags did you see? A I saw one bag.

Q Well, why do you speak of money bags? Were you confusing something that you saw with something that has been talked to you about or what you heard somebody else say? A Sure I heard about it.

Q How much of your testimony is based on what you remember and how much on what you have heard or read? A Everything what I am saying is what I saw.

Q You did not mean bags, then, did you? A Bags.

Q You can forget for a minute what you have read, can you? A Yes.

Q And you can forget what you have heard, can't you? A Yes, sir.

Q It is pretty hard, though, to forget those things, isn't it?

Mr. Fisch: I object, if the Court please.

The Court: Sustained.

Q This bag that you say you saw, that was being taken from where or being put in where when you saw it? A Just about when I said



I saw him running from the side of the car, the sidewalk side towards my car and the Chevrolet he put it into the back.

Q That was who, the man you saw was who? A Barone.

Q So the man you saw with the bag was not the defendant Capozzi, is that right? A That's right.

Q You did not see Capozzi with a bag, did you? A No, sir.

Q You did not see Capozzi run and put a bag in the car, did you? A No, sir.

Q You had a pretty good view of Capozzi, didn't you? A Yes, sir.

Q And you can say that he did not put any bag in, the man that you say is Capozzi put anything in the car? A I did not see him put anything in.

Q Now, did you see any gun in the hand of the man whom you say was Capozzi? A I did.

Q Did you see him all the time that you had him in view? A When he got in the car.

Q When was that you saw that? A When he got in the car at the second shot.

Q You did not see a gun in his hand before that? A No.

Q Did you see a gun in Barone's hand before that? A No.

Q When I speak of Barone or Capozzi, to save time, I mean the men you swear were Capozzi or Barone? A Yes.

Q Did you see a gun in the hand of the man you say was Barone before that time? A No.

Q Did you at any time see a gun in the hand of the man whom you say was Barone? A No.

Q Did you at any time see a gun in the hand of any one being shot?

Mr. Fisch: I object to that. I do not think that is what Mr. McGeehan means.

The Court: I will allow that.

A I don't understand your question.

Q You do not understand what I mean by that question? A No.

Q All right. I will reframe it. Did you see a gun in the process of being exploded and shot in the hand of any man? A Yes.

Q Who did you see fire a shot? A Capozzi.

Q Capozzi? A Yes.

Q When did you see him fire a shot? When did you see the man you say is Capozzi fire a shot? A As the car started off.

Q That was while it was moving? A No, just as it was ready to move, before it moved the shot was fired.

Q Was that before or after you saw the man that you say was Barone run in front of the Chevrolet? A Oh, that was after.

Q You did not see in what direction that shot was fired? A I did.

Q What direction? A Into the Chevrolet.

Q Then that was after you had seen Mr. Condit fall, is that right? A Yes.

Q Now, you do not know—did you see or were you looking that way when Mr. Condit was shot? A No, all I heard was the shot fired. I did not look at that time.

Q You were not looking at him at that time? A No.

Q You were then putting your car in neutral? A That is right.

Q And looking toward the gear shift of your car? A No, I didn't look toward it. I put it in neutral without looking toward it.



Q What way are you looking while I am questioning you? Can you look at me while you are answering these questions? A Yes.

Q All right. I wish you would. Where were you looking when you were putting your gear shift in neutral? A Toward Condit and Capozzi—toward the Pierce Arrow and the Chevrolet.

Q Now, didn't you just say that you were not looking there at the time the first shot was fired? A That is right. I was not. The shot attracted me.

Q Exactly, and I am asking you now if you were not looking there, which way you were looking. A At the Chevrolet, straight ahead.

Q At the Chevrolet, is that right? A Yes.

Q And not between you or not at the Pierce Arrow? A No.

Q And all that you saw happened in a very few seconds? A It was not a few seconds, I would say a few minutes.

Q Well, how long do you think the time was between the two shots you demonstrated this morning? A It was a few seconds.

Q And how long after that did you hear the third shot? A After they got in the car.

Q How long was that? A I could not say. It was not long. Maybe a minute.

Q Now, before you saw this thing happen, you were not expecting it to happen, were you? A No.

Q You were not endeavoring to remember any faces that you might have seen before that, were you? A Just what do you mean by endeavoring to?

Q You were not thinking of keeping locked in your memory the faces of any man you saw

before then? A Well, in business you get used to faces behind the counter.

Q You get so used to them, that you do not pay any attention to them? A That you do pay attention to them.

Q Well, you did not have any expectation of anything happening? A No.

Q And you did not try to memorize anyone's face before any shots were fired? A No.

Q And when the shots were fired, that was the last thing you were thinking of? A Yes.

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

Q So upset that you, being within fifteen to thirty feet of the man that was shot, that you did not go out to him? A Because the shots were coming from upstairs. I was afraid.

Q Yes, you were afraid in the whole occurrence? A Not in the whole occurrence, no.

Q Do you mean to say that you were not afraid, being that close to shooting, shots being fired all the time, weren't you scared at that sudden happening? A I was in the car; that is why I was not afraid.

Q You thought that bullets could not go through a car window?

Mr. Fisch: I object to that.

The Court: I will sustain the objection.

Q Well, why weren't you afraid in the car as much as you would be out of the car?

Mr. Fisch: I object to that.

A Why wasn't I afraid what?

Q Why weren't you afraid so much in that car as you would be outside? A Well, you



would feel more protected in the car than out in the street.

Q You felt more protected? A I felt safer.

Q But not altogether safe? A No, I wouldn't say altogether.

Q Did you duck when you heard the shooting? A No.

Q Did you move? A No.

Q Did you stay behind the wheel? A Sat behind the wheel.

Q You did not move at all? A No.

Q You said you had your top up? A Yes.

Q How could you look up and see those girls you say you saw? A You can look right through my windshield and see the girls plain.

Q Without moving? A Yes.

Q You were over here? A Yes.

Q What floor were the girls looking out of? A You have only the one floor up.

Q Well, please answer the question. A Well, the second floor.

Q And you looked up there? A Yes.

Q And unless they were hanging out, you could not see them? A Unless they were looking out of the window I could not see them.

Q Unless they were hanging out of the window and by that I mean their bodies protruding out of the window frame? A Yes.

Q And you were close enough to know how many there were? A No, I wasn't.

Q But you know there were several? A Several.

Q Now, the next time or the next thing you saw was the car disappearing, is that right? A Yes.

Q Now, during all that time, when did you get a look at the man you have sworn that

you recognized as the driver of that car? A As he turned Clay street with me; as I turned Clay street; he come over alongside of my car, and I saw the driver.

Q That is the only glimpse you got of the driver, is that right? A Not until after he got to the plant, I saw him again.

Q Now, did you see him after you got to the plant? After you say this car got to the plant? A I saw the side, just the side view.

Q When did you see the side view of him? A His car was stopped during all the time they were getting in the car.

Q Was he seated on the left or the right-hand side of this Pierce Arrow? A Left hand side.

Q So that when you were looking at the Pierce Arrow, you looked from a point about there, to a point about there, toward the Pierce-Arrow, is that right? A They were not that far up.

Q Well, to opposite the steps, is that right? A Yes.

Q Now, in looking at that car, you could not see who was sitting on the left hand front seat of that closed sedan, could you? A I could.

Q And you did? A I did.

Q His back was toward you, whoever was there, wasn't it? A For a while and then the side of his face was toward me.

Q How was the side of his face toward you? A When Little Joe Juliano started coming up, he turned his head toward what he was doing.

Q You were able to see him and absolutely recognize him, too then, were you? A Absolutely.



Q You are willing to say that you were able then to tell that man well enough in that manner to swear that he drove that car? Is that true? A Yes.

Q How did you see him, through what door, the side windows of the Pierce Arrow? A Through his side, the front door window.

Q You saw him through the front door windows of that sedan, that is right, isn't it? A That is right.

Q Don't you now that if that Pierce Arrow car were standing where you have sworn it was, and your car was where you swore it was, you could not see the man on the left hand seat of that car through the front right door of that car? A Very easily.

Q And you are sure of that, are you? A Yes.

Q And you saw him so well that you were able to put your hand on him when he was in a line-up of men, is that right? A That is right.

Q Before you went in there and put your hand on Bielke and put your hand on Boudreau, you were told what you were at police headquarters for, weren't you? A Yes.

Q And you knew you were there to be asked to see if you could identify two men? A No.

Q Did they tell you how many they wanted you to pick out? A No.

Q Did they tell you who they had arrested? A No.

Q You knew it from the papers? A No, sir, not at the time.

Q Not when you went before Boudreau and Bielke? A No.

Q You knew it before you picked out these defendants, though? A I did.

Q We will come to that afterwards. Now, after this hold-up occurred, you were at police headquarters and were questioned about what you saw, weren't you? A I was not.

Q Do you mean to say you were not questioned by the police as to what you knew about the Reid robbery? A At Mullin's Morgue and at the hospital.

Q Then you were questioned at Mullin's Morgue and you were questioned at the hospital? A Yes.

Q And you gave your name and address? A Yes.

Q And you told the policemen or detectives who questioned you that you saw everything that happened? A I did not at the time.

Q You didn't? A No.

Q Did you deny that you saw it? A I was not asked that at the time.

Q Did you tell the detectives that you were seated in a car looking at the two vehicles ahead of you?

Mr. Fisch: I object to that as not being cross examination.

The Court: What is the purpose of this?

Mr. McGeehan: The purpose goes to the credibility of this witness, and if he says he saw these things, and was questioned and he did not, it has a most important bearing on the credibility of the witness.

The Court: I do not take it the witness is called upon to testify to anything he said, unless he is interrogated specifically as to various points.



Q You told him you did not see who was there, did you? A I was not asked that the first day at all.

Q All right, not the first day, but the first time you told them about it since this thing happened, didn't you? A Well, a man was dead in my car, I did—

Q You can answer that yes or no, can't you, you gave your name and address and said you had witnessed the hold-up, didn't you? A Yes, sir.

Q Now, when did they bring you down to headquarters after that? A I don't remember whether they came to my store or whether I went down there.

Q I don't care either whether they came to your store or whether you went there, but you were there within a few days, weren't you, at headquarters? A I don't think so.

Q Well, within a week, then?

The Court: Were you in headquarters at all?

The Witness: At the line-up.

The Court: Prior to the line-up?

Witness: No, sir.

Q Well, were you questioned at your store by detectives then? A Yes.

Q Did you tell them what you had seen? A Yes, sir.

Q Did you give them a description of the men whom you say you had knowledge of their appearance enough to identify them? A I did.

Q Did you tell the police that there were only four men there? A I did not.

Q And did you tell them that one of them was about thirty-five years old, five feet eleven, thin face, light complexion? A I did not.

Q Did you tell them that?

Mr. Fisch: I object, unless it is specified by Mr. McGeehan to whom he refers, when he says, "Did you tell them?"

Mr. McGeehan: Oh, the police.

The Court: That is a proper objection, mention the name and the time and the place.

Q Did you tell the officer who came to your store, the detective, that one of the persons that you saw was a young man about thirty-five years old, 5-11 and thin face and light complexion?

Mr. Fisch: I object.

The Court: Sustained. Name the officer.

Mr. McGeehan: I take an exception.

Counsel for the defendants Louis Capozzi, Joseph Juliano and Christopher Barone pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: Name the person.

Mr. McGeehan: I state to the Court I do not know the name of that person who is the person that the witness has admitted talking to, and I have a right to ask him whether he did not make a contradictory statement. It is, the plainest sort of contradictory cross examination.



The Court: Oh, well, now don't assume that.

Mr. McGeehan: I ask an exception.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: Are you prepared to contradict this man by this officer?

Mr. McGeehan: I expect to be, I hope to be. Who was that officer, do you know what his name was?

Mr. Fisch: What officer?

Mr. McGeehan: The detective we are talking about.

The Court: No, we don't know whether you are relfying on someone whom he will name.

Mr. McGeehan: I think I have a right to ask this witness, in this inquiry into this important case, what the name of the detective was that he spoke to.

The Court: No, I will sustain that objection.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed, let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY.
(SEAL) Judge.

Q Were you shown by the detectives who came to your store a police circular saying four men were sought and one of them was of light complexion?

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

Mr. McGeehan: Let me finish the question.

Q Were you shown that and did you say that the description of those four men there was correct?

Mr. Fisch: I object to that if the Court please, unless the name of this officer is shown and unless Mr. McGeehan states to the Court that he has a basis of contradicting the witness.

Mr. McGeehan: I have a copy of the police circular circulated throughout the country by the Newark Police Department.

Mr. Fisch: I object to that, if the Court please, and I ask that it be stricken out. We don't care about the circular, it is not in evidence in this case.

The Court: Statements of the police are not binding on the State.

Mr. McGeehan: This question goes to whether he was shown that.

The Court: You must name the person in order that the State might know what to do about the testimony.

Mr. McGeehan: I think I identified him as a person whom he said he spoke to and I asked him whether he said something directly contrary to what he says here, and



that I submit is my right; and, then, on my defense, I may contradict him by producing that officer if he does not admit it here. I may not need to contradict him.

The Court: No, you can lay a foundation to impeach this witness, but you must name the officer with whom he is alleged to have had this conversation.

Mr. McGeehan: I will ask an exception.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. McGeehan: Then, I may not further question this witness along any statements contrary, or as to whether he made contrary statements to the officer, whom he remembers, unless I mention his name?

The Court: I am making no general ruling, Mr. McGeehan. I will rule as these questions arise.

Q You were questioned, you say at your store. Were you ever questioned at the Court House here? A No, I made a statement at the Court House.

Q Did you? How long after the hold-up occurred? A The same day as the identification of the five men.

Q After the hold-up were you questioned at the Court House here? A No, sir.

Q After the hold-up were you ever brought to headquarters to be questioned? A Yes, sir.

Q Now, will you tell us how long after the hold-up you were brought to be questioned at headquarters? A Why, I think it was a few days after that I was asked to look over pictures in Rogues Gallery.

Q Now, you remember that, don't you? A I do.

Q You did not mean it a little while ago when you told me, in answer to a question, that you had not been to headquarters, that you could not remember, until you were asked to see the line-up, you did not mean that, did you? A I just recall I had been there.

Q You want to change what you said before? A I wasn't sure before.

Q But you are pretty sure now? A I am.

Q Now, you not only remember that you were at headquarters but you remember that you were shown certain pictures of different men? A Yes, sir.

Q And you know that you did not pick out any of the pictures as being persons involved in that crime, did you? A I did not.

Q Now, do you know whether you were actually shown pictures of the four defendants here right after the hold-up occurred and looking at their pictures didn't say anyone of them were identified by you as being in the hold-up? A No, they told me to go to the Rogues Gallery and look over all the pictures.

Q Didn't they show you all these pictures, Captain Brex who is smiling there, didn't he? A No, sir.

Q Sure of that? A Positive.

Q Weren't you shown the pictures? The pictures that you did look at, were the pictures of these defendants, among them? A Well, there



were too many of them, I looked, and I got sort of upset and I stopped looking at them.

Q Now, I ask you this question. If you were shown pictures of these men you did not identify them as being the men you saw participate in the hold-up, did you?

Mr. Fisch: I object.

The Court: Sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Where were these pictures shown to you, Mr. Seigel? A At police headquarters with the rest of the witnesses.

Q And were the rest of the witnesses shown them too? A At the same time.

Q Who do you remember as being shown the pictures?

Mr. Fisch: Objected to as not cross examination.

The Court: It is not proper cross examination, Mr. McGeehan.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q You do know what other persons were shown the pictures?

Mr. Fisch: Objected to.

The Court: Sustained.

Q Without telling who the parties were do you know who the parties were who were shown the pictures at headquarters?

Mr. Fisch: Objected to as not proper cross examination.

The Court: Sustained.

Mr. McGeehan: He can answer that yes or no, I think.

The Court: The objection is sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, will you tell us what detectives were present showing the pictures to you that you have spoken of within a few days after this hold-up?

Mr. Fisch: Objected to as not proper cross examination.

Mr. McGeehan: I ought to be, and I think we are entitled to be given the opportunity to determine this important question and when the witness is asked and it is within the Court's discretion to have him answer, I think I ought to have his answer,





we ought to be given that answer of who the detectives were so we can interrogate them.

The Court: Why do you refer to a number of pictures, he said he was given the rack.

Mr. McGeehan: It is the same whether he was given two or two hundred.

The Court: Do you know the name of the officer?

Witness: I did not at the time.

Q Well, who are they? A Detective Kenny.

Q Who else? A He is the only one I recall being there.

Q Look around and see if you can recall who were there? A He is the only one I can remember, Detective Kenny.

Q Please look at the men, at the row of gentlemen sitting on this side of the Bar, I mean of the rail? A Nobody there that I know of.

Q Now, look at the front row, this row, do you see a number of detectives there? A The second one from the left.

Q This gentleman (indicating Detective Joseph Kenny)? A Yes, sir.

Q He is the one that you mentioned? A Yes, sir.

Q Now sitting here, do you see the Prosecutor's officers sitting at the counsel table? A Yes, sir.

Q Do you remember any of them being there? A I do not.

Q Do you see in this room any detectives, take a look at this front row here, do you see any officers here who were present when you were shown those pictures? A They may have been

but I don't know whether they were detectives or witnesses.

Q Then, you being in a room, questioned by them, looking at them, cannot remember the faces except Mr. Kenny?

Mr. Fisch: Objected to.

The Court: Sustained.

Q You did not say that perhaps a dozen of them sitting here were not there?

Mr. Fisch: Objected to.

The Court: Sustained.

Q Your memory for faces is not good with regard to this man, is it?

Mr. Fisch: Objected to as not proper cross examination.

The Court: Sustained.

A My memory is good.

Q You can remember no one but Officer Kenny? A No, sir.

Q Now, how many detectives were there all together?

Mr. Fisch: Objected to.

The Court: The witness said he don't know whether they were detectives or other people.

Q How many people were there?

Mr. Fisch: Objected to.

The Court: Overruled.

A I believe about twenty-five.



Q How many of them were the people you called witnesses that you knew were witnesses?

Mr. Fisch: Objected to.

The Court: Sustained.

Q How, do you know that a number of these twenty-five people were detectives without knowing their names?

Mr. Fisch: Objected to.

The Court: Sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let is be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Do you know that a number of these twenty-five people were detectives without your being able to remember their faces here?

Mr. Fisch: Objected to.

The Court: Sustained.

Mr. McGeehan: I think it is a proper test of this witness' memory for faces, your Honor.

The Court: No, it is not.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, as a matter of fact, Mr. Seigel, when you did go to identify the defendant in the line-up that Sunday afternoon, the morning of which you looked over that picture, that picture helped you an awful lot, didn't it, in picking out the men? A It did not.

Q It did not? A No, sir.

Q It did not help you at all? A No, sir.

Q It did not in anyway assist you? A No, because they wore different clothes in the line-up.

Q What? A They wore different clothes in the line-up than is represented here.

Q They wore different clothes then as shows shows in the line-up? A Yes, sir.

Q How was each one dressed, tell me that? A Different than they are here.

Q How were they dressed, do you need to look at that picture now to tell how they were dressed? A Yes, sir.

Q Do you? A They were dressed not as the picture represents.

Q Now, I asked you how each one was dressed, if you remember? That picture don't help you if they were dressed differently, you don't need that to look at now if they were dressed differently? A This picture shows Boudreau without a collar and there he had one, and this picture shows a spotted suit.

Q Tell me how they were dressed, if you say this picture is not the same? A I cannot tell you.

Q How was Juliano dressed?



Mr. Fisch: Which one?

Mr. McGeehan: The defendant who sits behind me.

A About the same as he is now.

Q The same as he is now behind me? A Yes.

Q The same suit of clothes? A I wouldn't say it was the same; the same color suit.

Q Well, a dark suit? A I think it was a gray.

Q Was it lighter than that, would you say he had a light suit on in the line-up? A No, that color. I think that is gray.

Q Do you think that is gray? The general effect of it is a dark suit? A Yes.

Q And he had on a dark suit in the line-up? A Yes.

Q What? A Well, it is not dark; it is a gray suit.

Q Well, he is shown wearing a dark suit in the picture.

Mr. Fisch: That picture is not in evidence.

Mr. McGeehan: Well, it is going to be. I am going to offer it. I will offer it now if the State consents.

Q Now, you said you did not read the story in the paper? A No.

Q But when you looked at this picture, you read what it said underneath the picture? A I did not.

Q What? A I did not.

Q You, who had witnessed the holdup, you saw this picture—you read as much as said

they were charged in connection with the Reid holdup? A Just the heading, where it says suspects held. I got busy Sunday morning with prescriptions and I let it lay.

Q Now, do you mean to say, Mr. Seigel, that in looking at the pictures of these men— by the way, when you looked at that, did you see that they were the men or not? A No, I didn't recognize them from the picture.

Q You did not recognize them from the picture? A No.

Q Not one of them? A Not a one of them.

Q Then, having seen this picture of every one of the defendants, full length pictures, all with hats on, there was not a man among them that you could recognize on this picture? A It is a very poor picture.

Q It is a very poor picture? A Yes, it is black and spotty.

Q That was why? A Yes.

Q Did you read Newark's underworld—

Mr. Fisch: I object.

Q Did you read what is underneath the rest of the article?

The Court: You know that is not proper.

Q Did you read that part, about the rest of the article, to see whose picture you were looking at when you looked at the Ledger? A No.

Q Did you read any single name under there? A Nothing but the head lines on the top of the newspaper.

Q So this printing, or was there printing for about an inch beneath their pictures when



you looked at the pictures? A I do not recall. I just got a glance at the picture and the headline, and then I laid the paper away.

(Picture offered in evidence and marked Exhibit **D. 1.**)

Q Now, when you went down then, to headquarters, to pick men out of the line-up, when you say you picked these men out, you went in there without even being helped a bit by that picture, is that so? A That is right.

Q Were you shown the original of that picture down at headquarters? A I was not.

Q Were you told what you were to do when you went before a line-up of men? A I met nobody there. I had to wait a half hour before anybody come in.

Q All right. After some one came in, I mean. Before you went before the line-up of men, who spoke to you, who told you what you were to do when you got in there? A Detective Kenny and Captain Brex.

Q They told you to do what with regard to the line-up of men? A They said, "We have some men here, and want you to look them over very carefully to see who you know, and if you don't know anyone, walk out of the room."

Q And if you did see anybody? A Put your hand on them.

Q And is that what they told you several days before about Bielke? A Yes.

Q And did he tell you how many men? A He did not.

Q You knew it? A Not in the first line-up. Nobody knew about that.

Q I am speaking now of the line-up that took place on Sunday afternoon when you picked

these defendants out, that was the afternoon of the morning you looked at that picture? A Yes.

Q Now, you knew from the picture, including Boudreau, whom you had previously picked out, that there were five men charged by the police in the Reid holdup?

Mr. Fisch: I object to that.

The Court: Well, he is asking him.

A I knew there were five men, because I saw them at the plant.

Q Did you ever tell the police at any time that there were five men and not four men when you were questioned after the holdup?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Didn't you tell the detectives who came to your store a couple of days after the holdup that there were four men and not five men in the holdup?

Mr. Fisch: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q You know what detective I mean without giving his name?



Mr. Fisch: I object.

The Court: Sustain the objection.

Q And how many men were in that line-up when you went in there? A I did not count them. I should judge from twelve to fifteen.

Q When you went into the room—before you went into the room, did you see any of these men? A No.

Q How long did you wait before you went in before that line-up? A All the witnesses were together and we were called one at a time.

Q And where were they stationed in that line, when you picked them out? A In a room on the top floor of police headquarters.

Q And where were the men stationed who you picked out of the line? A In the line-up where the other men were.

Q And where were they with respect to the other persons in the line, that is, were they in the middle of the line or on one end? A They were all through.

Q Now, you are sure of that, are you? A Positive.

Q Take three defendants, Joseph Juliano, Capozzi and Barone, were they apart from each other or three in a row? A Oh, no, they were apart.

Q You are certain of that? A Positive.

Q Of all the people in that line-up, were any of the other men clothed in full suits of clothes? A No.

Q You understood my question? A Not quite.

Q Well, what did you intend to say? A You said full suits of clothes.

Q Well, you know what a full suit of clothes is, coat, pants and vest. A Well, I think there were some who did not have coats on, if I remember correctly, one or two.

Q Well, I mean other than these defendants, did anybody in that line-up have a suit on? A Most of them were in shirt sleeves, not most; maybe one; one was a young boy there.

Q You looked pretty closely at all the people in the line? A I did.

Q Well, now, was there anyone else in the line besides the five men you picked out who had a suit on, coat and collar and tie? A Yes.

Q Who? A The rest of them. I don't know who.

Q Everyone of them? A Excepting a boy, I think, had his coat off.

Q You are pretty sure of that? A Yes.

Q Did you see this young man in the line-up? A He was the one that was shot.

Q Wasn't he in the line-up? A No.

Q You are sure he wasn't? A Positive.

Q Did you see him in the line-up? A No.

Mr. Fisch: Just a moment. We would like to have the names of the people in the audience. What was the name of the first man?

Mr. McGeehan: Mr. Capozzi is the second man and Mr. Duff is the first man.

Mr. Fisch: And what is Capozzi's first name?

Mr. McGeehan: What is your first name?

Voice: James.

Q Now, did you see a man there—do you see this man indicating the man second from the left



or the second man on the left part of the picture, did you see him in the line-up? A I do not recall.

Q You do not remember? A I cannot from that picture. It is a very poor picture.

Q Do you see this picture of the second man? A Yes.

Q Do you see his face? A Yes.

Q Do you see the way his hair comes down, his eye brows? A Yes.

Q Can you see the features of his face very clearly in that picture? A No.

Q You cannot? A No.

Q You do not remember whether that man was in the line-up then, the second man from the left? I show you this picture, which is Exhibit S. 16. Now, do you see a picture of that man there? A Yes.

Q Was he in the line-up? A Yes.

Q You remember him from that picture, do you? A Yes.

Q Did he have a coat on? A He had a coat on.

Q Did he have a collar on in the line-up? A Yes.

Q Was Bielke in the line-up? A The second line-up?

Q Yes. Did he have a coat on? A No, he didn't.

Q Now, that is two, that did not have coats on, isn't it, is that right? A That is right.

Q You thought before there was one? A I wasn't sure.

Q Now, was there more than two when you come to think of it that did not have coats on? A There may have been more.

Q Was number three in that photograph S. 16 among the line-up? A Which line-up?

*Philip Seigel, cross.*

Q The line-up you picked out these defendants in? A Sunday?

Q The line-up which you picked the defendants on trial out of on Sunday afternoon? A I do not recall him being in there at all.

Q You do not remember him? A No.

Q That is number three. You looked at that man pretty closely, I suppose, every one in the line? A Yes.

Q You do not remember him at all? A I do not.

Q Indicating three on Exhibit S. 16. Now, when you went in there, how quickly did you put your hand on each of the five men? A I walked down the line and looked at each man and walked back to the door and stood there for a minute or two, and then started down to the end of the line to make my identification.

Q So you just passed that line once? A No, twice.

Q You passed it twice? A Yes.

Q When did you see the men that you identified and recognized then, in your first walk or second walk before them? A Second walk.

Q You did not recognize them in the first walk? A I was just picking them out in the first walk.

Q And on your way back you touched them? A No. I went back to the door and looked at them again and then went down again and touched them.

Q Who had you in charge when you did that? A Nobody. Nobody. Captain Brex was in the room.

Q What did Captain Brex say about the process of the identification? A Captain Brex did not.



*Philip Seigel, cross.*

Q Who brought you in? A Detective Kenny.

Q Well, when Detective Kenny brought you in, was anything said about don't be afraid, just pick them out if they are there? A Yes.

Q Did he wave his hand when he said that? A No, just natural tone of voice.

Q Where did he come to and stop when you entered the room? A He left me when I entered the room.

Q And no one brought you in front of the line? A No. Captain Brex was in the center of the room.

Q How near was he to the line? A Two or three feet from the line.

Q And then did he say, "Come here, young man, don't be afraid," something like that? A He did not.

Q What did he say? A He said, "Look every one over carefully and see if you know them."

Q Did he say, "They are right here, look them over," did he use the words, "They are right here?" A No, sir.

Q Sure of that? A Positive.

Q He was standing in the center of the line two feet from it?

The Court: The center of the room.

Q How near to the line, two feet from the line? A Well, I could pass by him.

Q Was he in the center of the line? A About the center of the line.

Q How near to the center of the line were the five men that you picked out, including Boudreau, whom you had picked out a few days before? A They were not in the center of the line, they were in the beginning of the line, the

center of the line and the end, they were mixed up all over.

Q You are sure of that? A Positive.

Q Are you sure that the four men were not in a row together? A Positive.

Q Are you sure that Joseph Juliano, called in this case "Big Joe Juliano," and Capozzi and Barone were not standing together, three in a row and in the center of the line? A No, sir.

Q Are you positive of that? A Positive.

Q Now, when you did pick them out you went one, two, three, four, and five, didn't you? A I did not.

Q How fast did you go? A I went up to one and put my hand on one, and went down to the second, picked him right after the first, and then I stopped and walked down and looked at them again and then I went over and picked the third and then the fourth and the fifth.

Q You did it pretty rapidly, didn't you? A I wouldn't say it was rapidly.

Q Did Captain Brex express amazement at the speed with which you picked them out?

Mr. Fisch: Objected to.

The Court: Sustained.

Mr. McGeehan: That is part of the *res gestea,* part of the occurrence, your Honor.

The Court: No.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.



Q Now, did you have any doubt about any of the men that you picked out? A At all times do you mean?

Q At the time you picked them out of the line? A Just when I picked Bielke out.

Q You had learned later that Bielke is not charged with being there, hadn't you? A I did not learn later.

Q You learned it that very day after putting your hand on him, didn't you? A The minute he took his hat off.

Q Who did you take him for, who did you think he was, which one of the men? A Who did I take him for?

Q Yes, when you were doubtful and thought he was the man, which one did you think he was the one that sat in the car or the one that ran around the car, just which one? A I have no idea which one I thought he was, I simply asked him to take his hat off.

Q No, but you have testified already, young man, that you thought he was one of the men when he had his hat on? A That's right.

Q Now, which one of the men did you think Bielke was when he had his hat on? A I did not form an opinion at the time.

Q You did not form any opinion at all? A No.

Q You did not know whether he was the man you saw running around in front of the Chevrolet or not, do you? A No, sir.

Q Didn't know whether he was the man you saw in between the two cars? A Yes, I thought he was the man in between the two cars.

Q You did think that he was? A Yes, sir.

Q Why did you tell me two questions back that you did not form any opinion at all? A

I meant when I was there at the lineup and I asked him to take his hat off.

Q Didn't you say you did not form any opinion of who he was except that it was your opinion that he was one of the men you saw? A Yes, I didn't know who he was, that was all.

Q Now, when you went to pick out the five men Boudreau was in that line-up, wasn't he? A Yes, sir.

Q I mean on the Sunday afternoon? A Yes, sir.

Q So you knew Boudreau, you had already picked him out? A Yes, sir.

Q And you did not have to look whether he was one of the men you remembered him from a few days before, didn't you? A Yes, I picked him out right away.

Q Now, as a matter of fact, Mr. Seigel, you identified the men, as you identified here, as having been seen by you because you read in the paper that they had been arrested and charged with the Reid hold-up and because you were told by the police additionally that they knew they were the right men and that you should pick them out? A It is not.

Q And isn't it so that you have doubts about some of the men as to whether they are the right men or not? A Well, the only doubt I could have is the one in the back seat that I refer to as Big Joe Juliano.

Q You have a doubt about him? A Yes, sir.

Q And haven't you a doubt about the man whom you didn't see out of the car or anything except the one time when he came out and you got a glimpse of his face before you saw his hand raised? A No, I have no doubt about him.



Q You have no doubt about him? A No, sir.

Q Not the slightest? A No, sir.

Q Couldn't you be mistaken from that one glance? A It was not one glance I saw him a few times, when he started leaning towards the door and got out to point the gun.

Q And that through the windows of your car? A Yes, sir.

Q You have no doubt about the identification of Boudreau on the other side of the car, have you? A No, not in the least.

Q Not the slighest? A Not the slightest.

Q And the man whom you say was Capozzi, whom you looked at while you were looking at the windows and looking at a man coming around, haven't you some honest doubt as to whether he is or is not the man, in your own heart and mind? A I described him in New York.

Q You described him in New York? A To the police.

Q But you never described him to the Newark police after the hold-up that you witnessed, did you?

Mr. Fisch: Objected to.

Mr. McGeehan: Withdrawn.

Q Did you see any tall, blond man there? A I did not.

Q Did you tell the police that you saw a tall, blond man there?

Mr. Fisch: I object.

The Court: Just a moment, Mr. McGeehan, I have ruled that that question as improper. If you have anything at all to impeach this man specifically, lay your foundation.

*Philip Seigel, cross.*

Mr. McGeehan: I have laid it, I think, to my judgment I would be glad to get the name if I am allowed to from him.

The Court: There isn't any assurance that he has it.

Mr. Fisch: And he said no.

Q Now, Mr. Seigel, the police officers in charge of the case, before the identification, told you that they had the men that they were pretty sure were in this thing, didn't they?

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

The Court: Mr. McGeehan you have asked that before. I recall distinctly your asking that.

Mr. McGeehan: I would like to ask the question even though I have asked it before.

The Court: I will let you ask this, but don't repeat the question.

(Question read.)

A They did not.

Q Well, they talked with you, didn't they, about the men they had arrested? A Not about the men they had arrested, they said they had somebody they wanted me to look over.

Q And didn't they tell you they were pretty sure those were the men? A No, sir.

Q Did they tell you before they went there that Boudreau had told them, in a statement, that these men were with them and that is why they thought these were the men in the Reid case? A No, sir.

Q Didn't they tell you that? A No, sir.



*Philip Seigel, cross.*

Q You knew that Boudreau had told the police that these defendants were with him when he was in the Reid hold-up when you went in to make your identification? A I don't think they told me at that time, I don't think I knew it at that time.

Q You may have? A I may have, but I don't think so.

Q You don't deny that you did, do you? A I do deny; I don't think so.

Q But you are not sure? A I am not sure.

Q Well, if that was in your mind when you went in and you had in your mind that somebody that the police told you admitted being in the hold-up had said these men were with them, that would be, without your knowing anything else about the case, rather convincing to you that they had the right men, wouldn't it?

Mr. Fisch: Objected to as argumentative.

The Court: Overruled.

(Question read.)

A Not unless they were they.

Q But that, without your looking at them, if the police had told you that Boudreau admitted being in the Reid case and he said these men they had arrested were in it with him, you would feel pretty sure the police were right, wouldn't you? A But they didn't tell me.

Q Are sure they did not? A Positive.

Q Oh, a moment ago you said you were not positive, you don't remember, you don't know, is that right?

The Court: He said he was not sure whether or not the police had told him that

Boudreau had told who the men were he was with.

Mr. McGeehan: Right.

The Court: And this is a different question.

Mr. McGeehan: No, he says that he is sure that that very thing was not done.

The Court: That is not your question.

Mr. McGeehan: I think it is.

The Court: Your question is general now, before it was very specific.

Q Now, you say the police did not tell you before you went in there that Boudreau said he was in the Reid case and these men were with him?

The Court: That is not the same question.

Mr. McGeehan: That is the question now.

The Court: That is a question which is unanswered.

Mr. McGeehan: Why do you say now differently. That is the question?

(Questions and answers read as follows): "But that, without your looking at them, if the police had told you that Boudreau admitted being in the Reid case and he said these men they had arrested were in it with him you would feel pretty sure the police were right, wouldn't you? A But they didn't tell me. Q Are sure they did not? A Positive."

Mr. McGeehan: That is my question, and your Honor's statement was before he had testified he could not remember whether the police had told him that.



The Court: He said he could not remember, but this question is a double question and it can be answered partly, and I take it you want a distinct answer to it.

Mr. McGeehan: I do.

Q Then you said you could not remember, could you, whether the police had told you that before the identification? A You said before he made the statement, I don't remember whether he made a statement, I did not remember at that time that he made a statement, that is my answer to that question.

Q Did you or didn't you say a few moments ago that you did not remember now whether or not the police told you before you went in to make the identification that Boudreau had said he was in it and had testified that these men were with him? A I didn't say that.

Q You did not testify to that before? A No, sir.

Q Now, do you know now whether or not when you went in there that Boudreau had made such a statement? A I didn't know he made such a statement.

Q You did not? A No, sir.

Q Were you chatting with the officers around there when you came into headquarters? A There were not no officers there, but the witnesses and Detective Kenny.

Q Weren't there officers inside and outside of the detectives' room? A We were not in the detectives' room.

Q Did Captain Brex have a talk with you, say good morning, when you went in there? A No.

Q Not a word; nobody talked to you? A No.

Q As a matter of fact, didn't you pick these men out because you did learn from the police

detectives about Boudreau's statement and from the picture that you saw in the Sunday Call that morning, and which was again shown you before you went in before the line-up? A I did not.

Q Did you get in a telephone booth there? A No.

01 Q You were not placed in any hiding place, were you, took at them before you looked at them in the line-up? A No.

Q You did not need to? A No.

Q You had the paper to help you? A No.

Mr. Fisch: I object.

*Cross examination* by Mr. Kavanagh.

Q A little while ago there was some doubt in
02 your mind at the present time of the identification or identity of at least one of these defendants, is that true? A That is true.

Q Now, is it not a fact that there was some time prior to this afternoon when there was a doubt in your mind of the identification of all of these four defendants? A No.

Q What? A No.

Q Well, you testified this afternoon that a few
03 days or less than a week after this alleged holdup you were brought to police headquarters? A Yes.

Q Here in Newark, and taken to the rack of the rogues gallery; isn't that a fact? A Yes.

Q And in the company of certain detectives or officers at police headquarters of the City of Newark you minutely went through every picture in the rack in the rogues gallery?

Mr. Fisch: I object to that. That is not
04 the testimony.



Q You did, as a matter of fact, go through every picture in the rogues gallery in the police department of the City of Newark? A I didn't.

Q What? A I didn't.

Q Well, how many pictures were shown to you in the rogues gallery? A Well, I kept looking at the rack with the rest of the witnesses, 10
and my eyes started getting blurry, and I turned my head away.

Q And you testified this afternoon that the pictures of all these four defendants, including the defendant Boudreau, were shown to you to be identified?

Mr. Fisch: I object. That is not the testimony.

The Court: Quote the evidence. 20

Q Did you or not, Mr. Seigel, testify this afternoon, that you were shown in the rogues gallery of the City of Newark not only the pictures of Boudreau, whom you picked out—

The Court: Just a minute. That is not the testimony.

Mr. Kavanagh: Well, I am asking him if he did. 30

The Court: No, you are not. You are assuming that he did.

Q Well, were you shown the picture of Boudreau in the rogues gallery? A No.

Q Were you shown the pictures of any of the four other defendants? A No.

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LOUIS DAVIS, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q You are a doctor of medicine practicing in New Jersey? A I am.

Q And you were on the 19th day of July of this year? A I was.

Q Connected with St. Michael's Hospital? A I am.

Q Were you at the hospital on the morning of July 19? A I was.

Q Did you see Mr. Seigel, the last witness on the stand, at the hospital that day? A Yes.

Q Did you see a gentleman in the automobile that he came up to the hospital with? A I did.

Q I show you a photograph, Exhibit S. 15, and ask you if that appears to be a photograph of the man you saw in the car? A Yes.

Q What was his condition? A He was dead when I saw him.

Q Did you make any examination of him? A Excepting that I listened to his heart and opened his vest and saw some blood on the shirt and decided he was dead.

Q Did you see any wounds? A No.

Q Was his body still warm? A Yes.

Cross examination waived.

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THOMAS L. BELL, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Where do you live? A In Montclair.

Q Montclair? A Montclair, yes.



Q What is your business? A I am an automobile dealer.

Q Where is your place of business? A I have four different places. My main office is in Montclair.

Q At what address? A 217 Bloomfield avenue.

Q What is the name of your establishment? A North Essex Buick Company.

Q And you were carrying on that business last April? A Yes.

Q Did you do any business in April with a man named Carmine? A No, sir.

Q Did you supply Carmine with a second-hand car? A Yes.

Q Do you know when that was?

Mr. McGeehan: I object to that. I do not know what the relevancy is.

The Court: Well, it might be, I think the prosecutor is laying some preliminary steps.

Mr. Bigelow: I am going to connect up the plates on that car with the same license number on the Pierce-Arrow.

Q I believe you said yes in answer to the last question? A Yes.

Q Do you know what the license plates were on that car? A D-1926.

Q Was there another number—D stands for Dealer's car? A Yes.

Q And isn't there another number in addition to the number 1926 on the dealer's license? A Yes, number five.

Q As I understand it, dealers' plates are issued a considerable number of plates with the same number and that they are designated 1, 2,

3, 4, 5 and so forth? A Yes, they are issued in sets of five.

Q Have you seen those plates since? A No. sir.

Q Now, did you make a report to Commissioner Dill on the subject of these plates some time after you sent the car to Carmine?

Mr. McGeehan: I object. That would not be evidential.

The Court: It would be in this sense, suppose Mr. Dill sent something in response to that inquiry?

Mr. McGeehan: Even then it would not be. I object to this on the ground it is not competent evidence.

Mr. Kavanagh: I make the same objection for the same reason.

Q Then did you communicate with Director Dill some time after you sold the car with these plates to Carmine?

Mr. McGeehan: The same objection.

The Court: I cannot see the materiality at this time.

Q Did you receive any communication from Carmine?

Mr. McGeehan: I object to that as not binding upon the defendants in any respect.

Mr. Kavanagh: The same objection.

The Court: Sustain the objection.

Cross examination waived.



STEPHEN CARMINE, sworn in behalf of the State.

*Direct eexamination* by Mr. Bigelow.

Q Mr. Carmine, where do you live? A I live at Ridgefield, New Jersey.

Q Ridgefield? A Ridgefield, New Jersey.

Q Did you live there last April? A I did.

Q What business did you carry on at that time? A Restaurant business.

Q What was the name of your restaurant? A Clifford Lodge.

Q Do you know the defendant Capozzi? A Slightly.

Q Which of the defendants is he, looking down the row there? A The second from the other end.

Mr. McGeehan: That is not the man, is it (indicating the defendant Barone)?

Witness: No, sir; next to him.

Mr. McGeehan: Capozzi, stand up.

(Defendant Capozzi rises.)

Mr. McGeehan: Is that Mr. Capozzi?

Witness: Yes, sir.

Q The man who stood up first is not Capozzi? A No, sir.

Q The man who has just stood up is? A Yes, sir.

Q Do you know him by that name? A No, sir.

Q What was the name you knew him by? A Ruffie.

Q Did you see him during the months of April or May of this year?

Mr. McGeehan: I object to that as leading; I think the prosecutor ought to let the witness say when.

The Court: Overruled.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A I did.

Q Where? A In my place of business.

Q Clifford Lodge? A Yes, sir.

Q About how many times? A I should say four or five times.

Q When, if you can state more accurately than April and May? A Why, within a period of four weeks, four or five weeks following the 15th of April.

Q Now, did you receive a second-hand automobile from the North Essex Buick Company some time in April? A I did.

Mr. McGeehan: I think that is leading. It may not be an essential point, but I don't think the witness should be asked leading questions; I do not, however, object to this particular question.

Q When did you receive it? A The 23rd of April.

Q What were the license numbers of that car? A D1926, one, nine, two, six.

Q When did you last see those license plates? A The evening of the same day.



Q When did you know they were missing? A Around midnight the same night.

Q Where was the car then? A The car was parked in front of my house.

Q Is that Clifford Lodge? A Yes, sir.

Q What did you do, if anything, about the missing plates? A Why, at the time I did not know the number of those plates; I had to wait until the next morning to call up Mr. Bell, to find out what number those plates were. I called him up and I notified the Clifton police and he notified Commissioner Dill.

Q Have you seen those plates since? A I have not.

*Cross examination* by Mr. McGeehan.

Q They were stolen from you? A They were missing.

Q Well, you didn't give them to anyone, did you? A No, sir.

Q They were stolen from you and you notified the police, didn't you? A Certainly.

Q The place that you have, the Clifford Lodge, is what kind of a place? A It is a restaurant.

Q Pretty large place? A Yes, sir.

Q You have dancing? A Yes, sir.

Q You have an orchestra there? A Yes, sir.

Q How many tables? A Fifty-two tables.

Q And how many people on the average come to your place? A You are speaking of an ordinary week night?

Q Well, yes, an ordinary week night, tell us first. A Oh, I should say on an average of fifty to one hundred.

Q Then, on Saturday night, how many people have you? A Anywhere from 250 to 300.

Q Sometimes 300 people there at a time? A Yes.

Q Couples dancing? A Yes.

Q And you serve food there? A Yes.

Q Regular dinners? A Yes.

Q A la carte? A Yes.

Q And serve soft drinks? A Yes.

Q And your business was what before you went into the restaurant business? A Musician.

Q Did you play in an orchestra? A Yes.

Q Did you play in your own orchestra? A Well, that was before I came here.

Q And that is all you do now, is run this Clifford Lodge? A Yes.

Q Now, this place is sometimes known as Hilda's? A Yes.

Q Where is that? A Corner Van Houten avenue and Broad street, Clifton.

Q And a lot of your friends come there? A Yes, a few.

Q And many people with whom you are acquainted? A Yes.

Q And that is the way Capozzi would come there? A Yes.

Q He used to come there and eat and dance sometimes? A Yes.

Q That was the only way you knew he was there? A Yes.

Q And I think you said four or five times he has been in your place? A That is all.

Q Over what period of time? A Over a period of maybe four or five weeks.

Q Did he come on Saturday nights or week nights? A To the best of my knowledge, I do not think I ever saw him on a Saturday night.

Q You do not think you ever saw him on a Saturday night? A No.



Q Now, he was not any close friend of yours, was he? A No.

Q How many people do you say you know that come there frequently by name, fifty or a hundred people? A More than that.

Q And he is one of those persons that come? A Yes.

Q Now, when you made a complaint to the police, you had two men arrested from up in Passaic charged with the stealing of your plates? A I didn't.

Q Well, two men were arrested? A There might have been.

Q Well, wasn't there somebody arrested and held—two people arrested and held on $10,000 bail charged with stealing your plates? A Not that I know of.

Q Then, you did not appear against any such person? A No.

Q Now, this car you bought from the Essex Buick Company, is that right? A Yes.

Q I didn't quite catch when you said you bought it. Do you know the date? A On the 23rd of April.

Q And the very day you bought the car you lost the plates, is that right? A Yes, that is right.

Q Had you intended to keep those particular plates or return them? A No, they were plates to be returned to the Essex Buick Company.

Q And the next day you told them you could not return them because they were stolen from your car, is that right? A Yes.

Q They were dealers' plates? A Yes.

Q Do you use in your business a truck or automobile that you need this dealers' plate on? A I do not.

JOSEPH P. DUFF, sworn in behalf of the State.

*Direct examination* by **Mr. Bigelow.**

Q Mr. Duff, how old are you? A Twenty years old.

Q Where do you live? A 593 McChesney street, Orange.

Q Where are you employed? A Reid Iec Cream Company, Newark.

Q Were you employed there on the 19th day of July of this year? A I was.

Q What time did you get to your place of business that morning? A About twenty minutes after eight.

Q Will you look at the map marked Exhibit S. 1, the upper map, and point out—I think you can do it from your seat without moving—the building in which you usually worked? A Right here (indicating).

Q And is that on the west side of the street? A Right.

Q What was this building on the east side of the street, also in red? A Part of it was the shipping department, and part was the office.

Q Mr. Duff, what were your duties in general? A Record clerk.

Q In what department? A Cabinet department.

Q And what are the cabinets? A They are the ice boxes, the electric ice boxes and frigidaire, and stuff like that.

Q They are the cans or boxes in which the ice cream is sent out in? A No, they are the boxes that are placed in the customer's store for the cream to be put in.

Q And you kept a record of them? A Yes, sir.



Q Now, the morning of July 19th, did you have occasion to go across to the other building, or did you go across to the other building? A Yes, I did.

Q More than once? A Yes, sir.

Q About what time did you first go across? A About twenty minutes of ten.

Q Was there a Chevrolet car standing in front of the east building at that time? A No, there was not.

Q I show you a photograph, S8, a picture of an automobile, and ask you if you can tell what car that is? A Yes, I can.

Q What car is that? A That is the car in which Mr. Condit and I went to the bank in.

Q You were in the habit of going to the bank with Mr. Condit? A I was.

Q What make is this car? A Chevrolet.

Q And when did you next go across to the east building? A About ten minutes of ten.

Q Just a few moments after the first trip? A Yes, sir.

Q Was this car shown in Exhibit S8 in front of the building at that time? A It was.

Q I show you a photograph marked Exhibit S11 and ask you where on the street or sidewalk this car was when you saw it, when you went across the street the second time? A Just about where it is there.

Q Just about where it is there? A On the picture.

Q Did you go into the building at that time, did you go into the building? A Yes, I went upstairs to the office.

Q And who did you see up there? A Mr. Condit.

Q And what did you and Mr. Condit do? A I took one bag and Mr. Condit took another bag, and we went downstairs.

Q What kind of bags were those? A Brown leather bags.

Q Did you see those bags packed, did you see what was put in them? A No, I did not.

Q Were they opened in your presence? A No, they were not.

Q Now, you say you and Mr. Condit came downstairs? A Yes, sir.

Q Who came first? A I did.

Q Where do the stairs lead to, what part of the building? A The stairs inside?

Q The stairs when you come down? A They lead into a little vestibule on the first floor.

Q I show you another photograph Exhibit S5, showing the Reid Ice Cream building on the east side of the street, the outside of the building, is that vestibule on that side of the front of the building shown in the picture? A It is right here, at this door (indicating).

Q That is the door to the right? A Yes, the first door when you come up the steps.

Q Did you come out of that door? A I did.

Q And where did you go then? A I went down the steps and crossed in front of the Chevrolet and went inside of it.

Q Were you carrying a bag with you? A Yes.

Q Where did you put the bag? A I put the bag on the floor of the Chevrolet.

Q Did you notice whether Mr. Condit followed you out? A He did.

Q And where did he go? A He came to the same side I was sitting in and was about to hand me the bag.



Q Did anything happen at or about that time? A It did.

Q Will you please tell the jury just what happened? A Well, just about that time, as Mr. Condit was handing me the bag in, a large car drove up on the side of us and the man in the rear of the car demanded me to stick them up, which I did, and then a man came in between our car and in between both cars there was a scuffle, I heard a shot and saw Mr. Condit fall, and this man that came down in between grabbed the bag and there was another shot and I felt this sting in my leg.

Q At the time you felt the sting in your leg did you see anybody with a pistol pointed in your direction? A I did.

Q Where was that man? A He was in the rear of the car.

Q On the side toward you? A Yes.

Q Do you see that man in court? A I do.

Q Will you come down and put your hand on his shoulder? A (Witness does so.)

Mr. McGeehan: Indicating the defendant Capozzi.

Q What part of your body did you feel that pain in? A In my left thigh, close to my body.

Q Does you leg still trouble you?

Mr. McGeehan: I object to that, that is not relevant to this issue.

The Court: Sustain the objection.

Q After you felt the pain in your leg, will you continue from there on and tell what happened. A After I felt the sting I went to get

out onto the ground and was picked up by a girl and another fellow and put into the car.

Q Did you notice who was driving that car? A The car I was put into?

Q Yes. A Yes, I did.

Q Have you seen him in court? A Yes, sir.

Q Who was he? A Mr. Seigel.

Q The witness who was on the stand all the morning? A Yes.

Q Where did you go with him? A St. Michael's Hospital, Newark.

Q How long did you remain at the hospital? A Three weeks all but a day.

Q Are you able to recognize anybody else whom you saw that day at the time of the hold-up? A No, I am not.

Q You are unable to say whether any of these other people here in court are or are not any of the persons whom you saw that day? A I could not say that.

Q After you felt that sting in your leg you found that you had been wounded? A I did.

*Cross examination* by Mr. McGeehan.

Q Mr. Duff, how long did you work for the Reid Ice Cream Company about? A I went to work there about the middle of April.

Q And where do you live? A 593 McChesney street, Orange.

Q With your parents? A Yes.

Q You are not married yet, of course? A No, I am not.

Q Now, on the day that this crime occurred you fixed it about ten o'clock, somewhere around there, do you? A Between ten minutes of 10 and 10 o'clock, yes.



Q Somewhere close to 10 o'clock? A Yes.

Q The time you say you went there was about ten of ten? A About that.

Q Now, will you describe that building a little bit. Now, this building shown in S. 5, take a look at it; that is the office building you went over to? A Yes.

Q And the doors and stairs that you speak of appear leading toward the person who looks at the picture, is that right; are they the stairs? A Here.

Q Yes, or are they stairs on the other end? A No.

Q So that the steps appearing in the picture are the ones that you would go up or down going into the office? A Yes, they are.

Q And they are the ones that you came down that day? A Yes.

Q Now, this door they lead to, is it that door or the other one you would go in and out of? A I generally used the first door.

Q And on this particular day I think that is the door you came out of? A Yes.

Q And I think you said you came first and Mr. Condit came next? A Yes.

Q Is there a vestibule inside? A Yes.

Q And is there a door inside there that leads to the main part of the building? A There is a door leading to the back of the building.

Q How far is that door away from the front door at the top of the steps? A About a few feet.

Q Yes. A Just a few feet.

Q And does it go to the side of that vestibule or the space back of the first door that you see on the picture? A Straight back.

Q Now, when you came out the second time from the building on the other side of the street to go to the office building you said, I think, that the Chevrolet car was there at that time, is that right? A It was the second time I came across.

Q That is the time about ten minutes to 10? A Yes, sir.

Q You had gone often in that car to the bank with Mr. Condit? A I had.

Q Who did the driving, which one of you drove when you went to the bank? A Mr. Condit always drove.

Q Then you would sit on the right-hand side? A Yes, sir.

Q Now, the car was about in the position that is shown on one of the pictures that was shown to you? A Yes, sir.

Q Pointing towards Clay street? A Right.

Q I did not quite get what you said, Mr. Duff, when you said you came downstairs with Mr. Condit whether you went into the right or left-hand side of the Chevrolet? A I went into the right side.

Q Did you go around then? A I was in and sitting down.

Q Now, in order to do that do you remember whether you went around the back or front of it? A I crossed in front of the car.

Q When you got into the car did you get completely seated? A I had.

Q Do you remember where Mr. Condit was when you sat down in the car, about where he was? A He was right at the side of the car, right at the door.

Q And he, I suppose, was going into the left side of the car where the driver's wheel was? A He was about to hand me in the bag first.



Q Was he about to hand it to you on the right side, the side you got in, or was he handing it through the car or the left side, do you remember that? A He was standing on the right side of the car.

Q The same side that you got in on? A Right.

Q So he came around the car, too? A Yes, sir.

Q And he did not get in, did he? A No, he had not.

Q And had you brought that car to the front of the place or had some one else? A I don't know who had brought it, I had not.

Q Did Mr. Condit drive it to the place? A He usually did.

Q And where was it kept before that, where was the car stored or where did it come from to get to the place? A They usually store the cars across the street, but that car I don't know whether he took it home or not.

Q And you don't know whether Mr. Condit had just arrived in it from home or not, do you? A No, sir.

Q You don't know whether it was driven along the street before it got there? A No, sir.

Q You said it was about twenty minutes of ten the first time? A Yes, sir.

Q And then you went back, right back to the building on the west? A Yes, sir.

Q And then in about ten minutes you came back, is that right? A That's right.

Q Now, when you got seated, up until that time, did you carry a bag into the car, did you carry a bag into the car when you went in? A I placed the bag in there before I got in.

*Joseph P. Duff, cross.*

Q Then you carried one down the steps, didn't you? A I did.

Q And Mr. Condit was carrying the other one? A Right.

Q And when you got seated by that time you had put it in the car and Mr. Condit was just about to hand you or had handed you the other bag? A He was just about to hand it to me.

Q Now, then, a car drove up; is that right? A Yes, sir.

Q Did you recognize what kind of a car it was? A I did not.

Q Then or later? A I did not.

Q Could you tell whether it was a closed or an open car? A I could.

Q What was it, closed or open? A Closed car.

Q And where would you say, if you remember it, that car stopped, about how close to your car? A About two feet apart, I guess.

Q As far as that, about that far apart (indicating)? A I guess about like that.

Q And when that car stopped there did you see the doors open? A I did not see the doors open, I believe the back door was open.

Q You believe the back door was open when it came to a stop, as far as you can remember? A Yes, sir.

Q Now, at that time did you see anyone get out of that back door? A No, I did not.

Q Did you see anyone get out of the back door at any time? A No, I did not.

Q Up to the time that you were shot the nearest thing to you was the back door of that automobile that was parked there, wasn't it?

(Question withdrawn.)



*Joseph P. Duff, cross.*

Q Where was that back door of the car that was parked there? Was that about opposite the door which would be the right-hand door of the Chevrolet? A No, sir; it wasn't quite opposite; it was about back on a little slant like that.

Q Just a little to the rear of your door? A A little to the front of our door.

Q So that figuring on your car it was a little forward of your right door, the back door on the other car. Try to visualize it in your mind, Mr. Duff, approximately, as near as you can remember. A The front part of our door was about in the middle of their door.

Q The front part of the Chevrolet door was about in the middle of their back door? A Right.

Q So that would have a pretty good view sitting here—sitting here you would have a pretty good view of the door that was opposite a little forward right alongside of you? A Right.

Q And you did not see any man come out of there up to the time you were shot? A I didn't.

Q And you did not see any man come in there up to the time you were shot? A No, I didn't.

Q But the man that you think shot you is the man whom you saw in the car—in the door of that car, isn't he the man that you say shot you—do I understand you to say on your direct examination that you were shot by a man who was sitting in the rear of the sedan? A I don't think I said that.

Q All right. Now, where was the man who you say shot you? A I don't know who shot me.

Q You don't know who shot you? A No.

Q But the man that—did you see a man fire a gun? A No, I didn't.

Q You just know that you felt a sting in your leg; is that right? A Right.

Q And that was your left or right leg? A It was my left leg.

Q And where did the bullet enter in your leg, on the left or right side of your leg? A On the right side.

Q On the right side of your left leg? A Right.

Q Now, you were not behind the wheel, were you? A No, I wasn't.

Q You were sitting down at the time? A Yes, I was.

Q Now, just let us picture this. Here is a Chevrolet and here is the driver's wheel and the driver's seat, is that right—no, it was a left-hand drive, the Chevrolet? A Yes.

Q And you were sitting at this door and your legs were both even with each other, were they? A About, yes.

Q I mean you were sitting in the ordinary position? A They were apart, because I had one on each side of the bag.

Q Now, do you know in which direction the bullet entered the right side of your left leg?

The Court: Will you stand up and point?

Q Yes, do that. Do you know where it entered, in what direction? A Yes.

Q Show us. A Right here.

Q And it went through the—about the center of the left leg? A About there.

Q More toward the inner part of the leg? A Right.

Q Come down here so the jury can see. Will you show where it went in? A Right there.

Q And it came out where? A Here.



Q It came out the left side of your left leg? A Right.

Q And it went in toward the inner part of the left leg? A Yes.

Q Now, where was it that you saw the man that you believe, and whom you pointed out to be the defendant Capozzi, where was he there that you saw him? A In the rear seat of the car.

Q And I understood you to say before that he—withdraw that, that while you had a good view of the door of that car, nobody had gone in or out of the rear door of that car. A I didn't see no one go in or out.

Q Now, you were hurt, weren't you? You were hurt by being shot in your leg, weren't you? A Yes.

Q And all this happened very, very suddenly? A Yes, it did.

Q And there was a shock and excitement attendant upon the hearing of revolvers and bullets; your mind was excited to some extent, I suppose? A Yes.

Q Now, you picked this defendant out of the line-up of men, didn't you, recently, I mean in the last month or so at police headquarters? A I did.

Q And you expressed your opinion at that time that that looked like the man you had seen?

Mr. Fisch: I object.

Mr. McGeehan: I will withdraw what I asked.

Q When you saw that man, the defendant Capozzi in the line, you said you thought he was one of the men, did you? A I do not remember saying that.

Q I do not mean that you used those words. By picking him out you intended to give your opinion that he was one of the men, that is as you remember that man who was one of them; is that right? I will withdraw that question. When you picked him out, you looked over all the men first, didn't you? A Yes.

Q And you thought when you went in there that the men had been caught who did that crime, didn't you? A I didn't know, no.

Q Did you know? A No.

Q Did you know that some men had been arrested charged with that crime? A I didn't know anything about it.

Q But when you came to headquarters you were told that some men had been arrested charged with the Reid crime? A I was not.

Q But you knew you were down there to try to pick out the persons whom you had seen in the commission of that crime? A I didn't know what I was down there for.

Q Well, before you went into the line-up you were told, weren't you, that you were to look these people over that were in the line-up and see if you could identify anyone whom you saw about the Reid place when it was held up? A Just before I went in.

Q And at that time, did they tell you that they had arrested five men? A No, they didn't.

Q Did they tell you that they had arrested some men? A They did not tell me anything.

Q Just told you to go in and see if you could pick out the men you had seen at the time of the Reid hold-up? A Yes.

Q Now, when you went in you looked over those men? A I did.



Q And you believed, did you not, that some men were in that line whom the police officers believed were in the Reid hold-up? A I didn't know, no.

Q Well, the fact that you were sent for months after the day of the crime and asked to see if you could pick out any of the men charged with the Reid crime, didn't that suggest to your mind that some of the men accused of it were there?

Mr. Fisch: I object.

The Court: Overruled. Did you understand that question?

Witness: I forgot what it was.

Mr. McGeehan: Question withdrawn.

Q When you went in there, though, what you were trying to do was to see if you could pick out some or all of the men who were at the Reid plant committing the hold-up; that is right, isn't it? A Yes, sir.

Q That is what you were going to try to do, wasn't it? A Yes, sir.

Q Now, among the men that you saw there were all of the defendants, you don't know that, I suppose—was the defendant Capozzi, this man that you have picked out? A He was there; yes, sir.

Q Now, in looking at him did you look at him long before you finally decided that you thought he was one of the men? A Not very long; no, sir.

Q You looked the line over several times? A I did.

Q You had to depend entirely on your memory in doing that, didn't you? A I did.

Q Would you say that you have a good or not a good memory for faces, Mr. Duff? A I have about the average, I guess.

Q You don't think you are really good or you don't think you are really below the average; is that right? A That's right.

Q Do you sometimes find it hard to remember a particular face or faces?

Mr. Fisch: I object.

Mr. McGeehan: Question withdrawn.

Q When you picked out this man you believed conscientiously that he was one of the men, didn't you? A I did.

Q You believe it now, don't you? A I do.

Q But you may be mistaken, may you not, Mr. Duff, when the question of identification involves life and death? A No, sir.

Q You would not be absolutely certain of it, would you? A Yes, sir.

Q You think you are certain? A I am.

Q Now, the other person that you saw there; you saw other persons there, didn't you? A I did.

Q How many did you see, how many other persons? A I saw two other men besides the men I identified.

Q Where were these other two men that you speak of? A They were the ones that attacked Mr. Condit between both cars.

Q Did you see where those men came from, those other men? A They came from the rear of our car.

Q They came from the rear of the Chevrolet? A Yes, sir.

Q And they are the ones who attacked Mr. Condit? A Right.



Q You are positive that those two men did not include the defendant Capozzi, aren't you? A Yes, sir.

Q You are certain of that? A Yes, sir.

Q You heard Mr. Seigel say, didn't you, that this defendant ran between the cars—

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

The Court: Sustained.

Q Did you hear the testimony of Boudreau yesterday? A I did.

The Court: Mr. Duff, you testified in the beginning that somebody said "Stick them up." Was that another person other than Capozzi?

Witness: No, sir, that was Capozzi.

Q You heard that said from the car; is that right? A From the rear of the car; yes, sir.

Q Were you at headquarters, Mr. Duff, some time after the occurrence of the crime? A I was.

Q And were you then shown a number of photographs? A I was.

Q And do you know whether among the photographs there was a picture of the man whom you said you saw there? A I don't remember seeing any of him.

Q But were you shown a number of pictures? A I was shown the rack and I went over them myself.

Q And were certain ones pointed out to you on the rack? A No, they were not.

Q Were you asked particularly about certain ones? A No, not at that time.

Q Later on? A No, I was not.

Q You never picked out any picture as looking like or being a picture of the man that you saw, did you? A I might have when I was in the hospital.

Q You might have at the hospital? A Yes.

Q Were some pictures brought up to you at the hospital? A They were.

Q How many were brought up to you at the hospital? A I don't remember; quite a few.

Q I don't mean exactly. A I have no idea.

Q Well, would you say there were ten or twenty? A Oh, more than ten.

Q Were there more than twenty? A That I could not say.

Q Would you say, as far as you can remember, around twenty or twenty-five, or fifteen? A I have no idea.

Q But you looked at some pictures? A I did.

Q Then there was not a very great number, was there; there was not a whole rack, as you spoke of before? A No, there was not a whole rack.

Q Now, do you remember who brought those pictures to you at the hospital? A I do.

Q Who? A Mr. Kenny.

Q And who else? A And Mr. Anderson.

Q And who else? A And another man; I do not know his name.

Q Do you see him in court? A I did see him before; I do not see him now.

Q And they brought those pictures or some pictures up to you at the hospital, is that right? A Right.

Q Now, at that time you could not pick out any one as looking like the man you had seen at



the time of the crime, could you? A I just gave him an idea of what he looked like, but I didn't pick him out.

Q Now, did you see anybody there that had light hair or a light complexion? A No, I didn't.

Q Did you ever tell the police that any time that you saw anybody having a light complexion at the scene of the hold-up?

Mr. Fisch: I object.

The Court: What time, and who do you mean?

Mr. McGeehan: I mean of the officers.

The Court: It is too general; the same ruling as before, unless you are more specific.

Q Did you tell any of those officers at the hospital at any time that there were four persons at the scene of the hold-up participating in it and that one of them was of light complexion? A No, I didn't.

Q Now, the man that you saw in court and whom you have stated is the defendant Capozzi, he was seated when you saw him, then, was he? A He was, yes.

Q And, of course, being seated, you could not tell whether he was a tall or a short man, could you? A I know he sat pretty high.

Q But not standing up, you could not tell whether he was a short or tall man, could you? A I figured he was tall.

Q But you could not tell from seeing him sitting in the car what his height was, could you? A No, I couldn't.

Q And what kind of a hat or other head covering did he have on? A He had a straw hat on.

Q A straw hat on? A Yes.

Q And what kind of a straw hat was it, a soft one or a stiff one? A A stiff straw hat.

Q And that covered the upper part of his forehead, did it? A It came down on a slant.

Q On a slant? A Like that.

Q And in the time that you saw him, the shooting was going on, wasn't it? Had any shots occurred when you saw him? A I was looking at him when the shots occurred.

Q And you did not see him fire any? A No.

Q And then, if you saw that man sitting in there during the time that the shots were actually being fired and you were excited as you said, don't you think you might be mistaken in your memory, months later, of the identity of the person you had seen, Mr. Duff? A No, I wouldn't.

Q You don't think so? A No, I don't.

Q You have been mistaken in remembering people?

Mr. Fisch: I object to that.

The Court: I will allow that.

A I do not remember having been.

Q What? A I do not remember of having been.

Q You have seen people who looked familiar to you whom you learned you never met before? A I do not remember.

Q Don't you ever see a familiar face and yet not know where you had seen the person before? A Hardly.

Q You don't think so? A No.

Adjourned until tomorrow, Friday, November 19, 1926 at 10:00 o'clock A. M.



## FIFTH DAY.

Friday, November 19, 1926.

Appearances as before stated.

Trial continued.

JOSEPH P. DUFF, resumes the stand.

*Cross examination* (continued) by Mr. McGeehan.

Q Mr. Duff, where did you live at the time this happened? A 593 McChesney street, Orange.

Q And with your parents? A Yes.

Q And have you lived there also this month? A I have.

Q And do your family take the Sunday Call Sunday mornings? A They do.

Q Were you home on the Sunday that you went down to try to pick out of the line persons whom you had seen on the day of the crime? A I was.

Q And on that morning—what time did you go down to Police Headquarters that afternoon? A I was supposed to be there at 2:00 o'clock.

Q And before you went down you were at home, is that right? A I was for awhile, yes.

Q And did you go to church that morning? A I did.

Q And then you came home after church? A I just got home in time to start down to Newark.

Q And then you went to late church? A 11:00 o'clock mass.

Q And you were home up to the time you left for the 11:00 o'clock mass? A I was.

Q Now, you looked at the Sunday papers during that time? A I didn't; I didn't have time to.

Q Until 11:00 o'clock? A I didn't get up until late that morning.

Q How late did you get up? A Half-past ten.

Q And then you went right to Police Headquarters—did you go home before you went to Police Headquarters? A I did.

Q And had your Sunday dinner at home? A No.

Q Didn't you stay home to dinner? A I didn't.

Q You didn't stay home to dinner? A I didn't.

Q Where did you have dinner? A I had dinner that evening after I returned home.

Q Did you have lunch? A I just had a light lunch before I left.

Q Well, you had your lunch at home? A Yes, I did.

Q And having your lunch at home, you went after lunch to keep the appointment at Police Headquarters at 2:00 o'clock? A I did.

Q Now, when were you informed that you must go to Police Headquarters? A Well, while I was at mass they received a phone call at my house.

Q While you were at mass your house received a phone call? A Yes.

Q And you got home from mass before 12:00 o'clock? A No, I didn't get home until five after one.

Q Did you go directly home from mass? A No, I did not.



Q And when you got home and that message was there, you spent time at home to have lunch and knew that you were to go to Police Headquarters; didn't you look at the newspapers to read what was in them? A No, I hadn't time to look at it.

Q What? A I hadn't time to look at it.

Q Well, did you have time to glance at it? A I didn't look at the newspaper that day.

Q How many members are there of your family? A Six.

Q And how many of them are children? A Well, none of them are children.

Q Were all the six members of your family at home that morning? A I do not remember that.

Q You do not remember any of them being away? A I do not remember whether they were away.

The Court: Well, do you mean away from home or out of the house that morning?

Q I mean away from the house that morning. A No, none of them were away that morning.

Q All of the six adult persons read newspapers, don't they?

Mr. Fisch: I object. I do not think that is cross examination.

The Court: I will allow it.

Q (Question read.) A They do as a rule, yes.

Q After you got home from church and after they told you that you had to be down at Police Headquarters at 2:00 o'clock in the afternoon,

didn't any member of your family speak to you about and show you a picture in the Sunday Call of men who were alleged to be the perpetrators of the Reid robbery and murder? A No, they didn't.

Q They didn't mention a word of it to you? A No.

Q Didn't show you the paper? A No.

Q You didn't look at it? A I didn't see it.

Q Did you see it afterwards?

Mr. Fisch: I object. I do not see how that is material.

The Court: It might be.

A I saw the paper that night in my sister's home.

Q Now, how was the defendant Capozzi in the line-up dressed? A I don't know how he was dressed.

Q You don't know what kind of a suit he had on? A I didn't take notice.

Q Did you notice how many men in that line-up were dressed with collars and ties and coats and vests? A I didn't notice how many had collars and ties and vests.

Q Did you notice how many had coats on? A No, I didn't notice that, either.

Q Did you notice who was standing next to the defendant Capozzi in that line? A No, I did not.

Q When you were taken to the hospital, Mr. Duff, who drove the car? A I believe Mr. Seigel.

Q You say you believe, but there was someone else in the car, wasn't there? A There was.

Q Was a Mr. Caruso in the car? A I don't know anyone of that name.



Q What did he look like? A I don't remember what he looked like.

Q You were conscious, weren't you, all the way to the hospital? A I was.

Q And how did you ride, sitting up? A No, I was in a kind of a lying down position.

Q Sitting in the seat, kind of lying down? A I was sort of reclining.

Q In the rear seat or front seat? A In the rear seat.

Q And how many men were in front? A I don't remember how many were in front.

Q Where did you see Mr. Seigel? A I saw Mr. Seigel while he was driving.

Q Do you know whether or not he was so nervous and excited that he gave up the wheel to someone else to drive to the hospital? A I did not notice that.

Q Now, do you remember a man who helped you into the car, who helped you into the car? A I don't remember; I remember a girl helped me into the car.

Q You remember seeing another man in the car with you and Seigel, don't you? A I do.

Q All the way to the hospital? A I guess he was; yes, sir.

Q And he helped you into the hospital, didn't he, that other man? A At the hospital a sister helped me in, I remember.

Q Yes, but these men were in the car helping you? A No, I got out of the car myself.

Q So you were able to walk out; I mean you had strength to walk out yourself? A They were paying more attention to Mr. Condit and they left me in there and I sort of hobbled out.

Q In that time you saw this other man, could you tell us what he looked like? A No, I don't remember him, in no way.

Q Now, you had a pretty good look at him, didn't you? A Yes, but I don't remember what he looks like.

Q Do you remember talking with the detective who came up to the hospital with some photographs, do you? A I do.

Q And among them, I think you said, was Officer Kenny? A Yes, he was.

Q You cannot remember anyone else? A Mr. Anderson, I remember.

Q Now, did you say to Officers Kenny and Anderson at headquarters or at the hospital at any time that one of the men that you saw was about thirty-five years old, five feet eleven, thin face, light complexion? A I don't remember that; no, sir.

Q You did not say that at all? A I don't remember saying it, no, sir.

Q Then, you think you might have said it? A I can't say whether I did or not.

Q Well, at that time you were not sure whether the man you saw was of light complexion or of dark complexion, were you? A Yes, I was.

Q You were sure? A Yes, sir.

Q Are you or aren't you sure whether you said he was of light complexion? A I don't remember saying that.

Cross examination by Mr. Kavanagh waived.

*Re-direct examination* by Mr. Bigelow.

Q Will you look at the defendant Capozzi from where you are, where the Court officers are on each side of him, and tell us whether, in you opinion, Capozzi has a light or dark, or



what kind of a complexion? A I would not say it was dark just now.

Q You would or would not say? A No, I would not say he was dark.

Q Now, before this Sunday line up at the Newark police headquarters, had you seen any other line-ups outside of the City of Newark? A I had.

Mr. McGeehan: I object on the ground that it is not relevant.

The Court: I will allow that question.

Mr. McGeehan: The prosecutor brought out on direct his testimony as to the line-up and I had a right to cross examine on it, but I would not think that anything this man might have expressed by word or actions one way or another at any other place would be admissible.

The Court: We have not come to that. He simply asked the general question.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Where were three other line-ups?

Mr. McGeehan: I object on the same ground.

The Court: I will allow it.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi,

prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A One was in Hackensack.

Q Where was the other?

Mr. McGeehan: The same objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A The second line-up was in Newark headquarters.

Q At the second line-up, do you mean the one on the Sunday of October 17th, when you recognized the defendant Capozzi, or was there another line-up at Newark headquarters beside the one on October 17th? A There was one before the last one.

Q Was there any line-up anywhere else that you attended?

Mr. McGeehan: The same objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi, prays an exception to this ruling of the Court.



Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Do you recall going up to Paterson or Passaic? A Yes, I do.

Q Which was it, was it Paterson or Passaic? A I went to Paterson and to Passaic both.

Q Now, at any of these line-ups, outside of the line-up on Sunday, October 17th, did you see any man whom you saw at the hold-up on July 19th?

Mr. McGeehan: I object to that on the ground that it calls for a statement of actions or expression on the part of this witness made out of the presene of the defendants and not binding upon them, and not material to this issue.

The Court: I will allow that question.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A No, I didn't.

Mr. Kavanagh: The same objection.

The Court: The same ruling.

Counsel for Nicholas Joseph Juliano, alias Little Joe, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

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HARRISON S. MARTLAND, sworn in behalf of State.

*Direct examination* by Mr. Bigelow.

Q Doctor, you are County Physician of Essex County? A I am.

Q And how long have you been County Physician? A Since June, 1925.

Q On the 19th day of July this year did you have occasion to go to Mullin's Morgue here in Newark? A I did.

Q Where is that? A Mullin's Morgue is in Washington street near Central avenue.

Q About what hour did you get there? A I got there about 11:20 and started an autopsy.

Q Now, you say you started an autopsy, was the body on which you performed that autopsy identified to you? A It was.

The Court: Mr. McGeehan, there is no objection that this is the body?

Mr. McGeehan: No, I do not object to the hearsay.

Q By whom? A By Mr. Philip Seigel, identified as the body of Mr. Condit.

Q I show you a photograph, Exhibit S15, and ask you if that appears to be a picture of the man upon whom you performed the autopsy? A That looks very much like the man.



Q Was the body dressed or undressed when you saw it first? A The body, at my orders, was left dressed, so that I could undress him myself.

Q Well, now, will you describe to the jury what you did and what you saw? A The first thing after the identification of the body by Mr. Seigel, I started to undress the deceased. He was dressed in a gray coat, a gray pair of pants, white shirt with brown stripes, B. V. D. undersuit, brown socks and tan shoes. He had suspenders and a belt. In the gray coat, on taking off the coat, situated beneath the right arm pit, here (indicating) about two and a half inches beneath the arm pit, which would be about there (indicating) in the midline on the side was a bullet wound.

Q Doctor, would you like to illustarte on somebody what you found? A It would perhaps be better, yes, sir.

Mr. Bigelow: Mr. Fisch, will you allow the doctor to demonstrate it on you?

(From this point on the doctor testifies demonstrating on Mr. Fisch.)

Witness: This first wound was on the right side. The deceased weighed about 125 pounds and was five feet eight inches in height. Situated about from the center of the right axillia, about two and a half inches below here (indicating) was a small round hole in the coat, in the gray coat, one quarter inch in diameter, situated at the upper part of this wound here covering the whole hole, and this stain covering an area of about a half inch, there was a slight brownish stain on the cloth.

Q That is on the coat itself? A That is on the coat itself, and above the hole, that is the brownish stain occupies an area of a round area of about a half inch in size, and at the lower end of this brownish round stain, is the bullet wound of entrance just about one-quarter of an inch in diameter. The cloth here looks as if it was—

Mr. McGeehan: I object to what it "looks as if."

The Court: Tell what in your opinion it was.

Witness: The cloth in my opinion—

Mr. McGeehan: I object. He has not qualified as any expert except a doctor.

The Court: Doctor, do you know it as a fact?

Witness: This brownish stain to me appeared—

Mr. McGeehan: Is this doctor offered as an expert on anything except autopsies?

The Court: I will let the doctor answer the question as to what it appeared to be to him. That is a fact he is testifying to.

Mr. McGeehan: I object on the ground that he has not qualified as an expert.

Witness: It appeared to me as if the brownish stain was caused by the close proximity of the gun, the brand being produced by the gasses of combustion of the bullet after it leaves the barrel of the gun—

Mr. McGeehan: I ask that that all be stricken out on the ground that the doctor has not qualified as an expert on that subject.



The Court: We will strike it out. I suppose the doctor was going to testify to something else.

Q Did that part of the coat have any odor to it? A No special ordor. This same wound, that is the same hole opposite this hole, there is a corresponding hole in the white shirt and in the underwear. In the skin on the body opposite this hole in the cloth there is a bruise, a horizontal, slightly oblique and slightly pointed downward, bruising of the skin, an inch in antro-posterior diameter.

Q That means from front to back? A Front to back, and about three-eighths of an inch wide in vertical height. In the forward part of this bruise in the skin was a bullet wound of entrance one-quarter of an inch in diameter, the hole, the back part of the bruise showing that the bullet in passing caused that large bruise, or struck the skin before it actually penetrated the chest wall. The autopsy then discloses that this bullet passed forward to the left and slightly downward, in about the anterior axillary line, about there (indicating); it passed through into the chest wall, into the chest, fracturing the fifth rib. Then passed through the middle lobe of the right lung, producing an extensive bullet tract with hemorrhage between the lungs and the chest wall of about three-quarters of a pint of blood. It then passed forward to about one-half inch to the autroform cartilage that is about here (indicating) approximately here, again fracturing the fifth rib and passing out of the chest wall.

Q Is the point where it passed out lower or higher than the point of entrance? A The point

on the actual body of this man, was two inches lower than the point of entrance. The point where it passed out was two inches lower than the point of entrance so that the course of the bullet was forward to the left and slightly downward. That passes out of the skin producing a wound about three-eights of an inch in size, the wound in the skin, of exit, being slightly larger than the wound in the skin of entrance.

Q It then passed out? A The coat was unbuttoned and it passed out through the shirt and the undershirt without producing a hole in the outer coat, this probably being thrown back. That was the first wound. This wound is not necessarily a fatal one, but it might be. The second wound which was about ten and a half inches below the lower border of the collar.

Q Do you mean now the hole in the coat? A The hole in the coat, and about one inch to the right, about there (indicating), here there was a little "L" shaped cut in the coat about a little over one-quarter of an inch in size, with no surrounding powder burns or no brand, the brand being in the other wound. This one on autopsy, passes through the coat, through the shirt, through the B. V. D.'s and enters the back close to the spine, about three-quarters of an inch to the right of the midline. This wound passes forward to the left cutting through the spine, cutting the spinal cord at the level of the 10th dorsal vertabrae. One-half cutting the spinal cord through, entering the left chest posteriorally, through the body, through the latteral body of the tenth dorsal vertebra and producing a bleeding into the left pleural cavity, that is the space in between the lung and the chest wall, of over two quarts of blood, from which the man



bled to death. It then passes forward and comes out in the coat about two and one-half inches below the body on this side. In the body it comes out in the left anterior axillary line fracturing the ninth rib and about six inches below the arm pit. This wound, as it comes out, produces a wound in the back one-half inch in diameter in size, with no powder marks or anything, and a white handkerchief that is in the pocket is blown out of the wound in this fashion (indicating), from the force of the bullet, the handkerchief, being in the pocket, is knocked out through the wound and it sticks out there for about three inches through the hole of exit in the coat, showing that this bullet was the bullet of large caliber with enormous velocity to pass entirely through the body and leave it.

Q Neither bullet was found either in the body or the clothes? A No, both bullets passed entirely through the body, passing from back forward.

Q And the second bullet that you described caused death? A The second one caused death by extensive bleeding in the left plural cavity.

*Cross examination* by Mr. McGeehan.

Q I understood you to describe the size of the entry and exit points of the first bullet, but I do not think you did of the second. A In the skin or clothes?

Q In the skin. A The diameter of the bullet of entrance here on the right side, the first wound described in the skin, was a quarter inch in diameter. Its exit in the skin was about three-eighths of an inch in diameter.

Q Does that happen when a bone is struck? A No, it may happen with a soft part. The

wound of exit may not be, but is usually a little larger than the wound of entrance, but that is not always so. It is so if the bullet is turned out striking a bone. It is so if it is bad ammunition and it is so in different types of bullets. In a machine gun bullet, it may be larger, but in automatic ammunition, it is quite possible the wound of exit sometimes, when it is close range, will be the same size exit. Now, the second wound, the wound of entrance in the skin, was one-quarter inch in size and the wound of exit in the skin in the left axila was one-quarter inch in size, so they were both the same.

Q Now, doctor, do you remember when you said there was a hole in the coat where it came out? I am speaking now of the second bullet. You said there was a hole in the coat and no powder marks there. Do you remember saying that? A Yes.

Q What made you think that the powder marks at the point of exit of the bullet—was it because you had doubt whether the bullet went in or came out? A No, it was just to emphasize it and make it strong that that was the point of exit.

Q There were no powder marks on the rear of his coat where that entered? A No.

Q So that would not determine whether it went in or out? A As far as powder marks was concerned, it wouldn't.

Q Neither does the size of the wound in this second bullet say whether it went in the front or back? A From the size alone, no.

Q No difference between the front wound and the rear wound of what we call the second bullet? A Yes, there is a difference, which was



not described but there is a difference between the back wound and the front wound.

Q Well, you have said that the size— A As to the size, they were the same.

Q Now, doctor, could you say whether the bullet that struck this man, how far it had traveled; you could not tell by the autopsy? A The distance of the weapon?

Q Yes. A In the second wound?

Q Yes. You could not tell by the autopsy? A Yes, I can tell this, that I believe—

Q Wait. I want to ask you as an expert whether you can tell by the autopsy the distance that a bullet has traveled from the nature of the wound. A From the nature of the wound and examination of the clothes, I am quite certain—

Q I want to first get an answer.

The Court: Can you do it?

Witness: Yes. I am willing to give an opinion.

Q You say you can tell from an examination of the wound how far the bullet had traveled before it struck the body?

Mr. Bigelow: It seems to me that this question is a bit broad. I imagine in some cases it might be possible.

The Court: Well, the question is, can the doctor tell?

Witness: In this case I can give an opinion, yes.

Q And is that based upon the nature of the wound? A Based upon the nature of the wound.

Q What is your opinion? A My opinion is that this second wound was fired at a longer distance than the first wound; that it was probably, so far as I can judge, over a foot and maybe over three feet.

Q You have heard experts on gunfire testify? A I have.

Q And you know that the testimony of those experts is that a revolver will not burn at a greater distance than twelve inches? A The brand is usually considered over one foot.

Q You are basing what you just said entirely on what you have heard them say? A What I heard them say and what I know myself about it.

Q Now, will you please listen to this question and answer it. From the nature of a wound, and you, as a doctor, know what a wound is, don't you? A Yes.

Q From the nature of a wound, irrespective of conditions of clothing, can you or can you not tell the distance that a bullet may have traveled? A In this particular case, or in any case?

Q In any case, from the nature of the wound in the body, where there are no powder marks? A Yes, I can. Where there are no powder marks. The brand is not a powder mark.

Q Where there is no brand? A Where there is no brand and no powder mark?

Q Yes. A No, you cannot tell it.

Q No, you can't? A No.

Q Now, doctor, there was no brand or powder mark on this second wound? A No.

Q Then will you tell us now whether or not you can tell how far—from what distance that second bullet was fired? A I assume—

Q Now, can you tell us or not, doctor? A Yes, I can tell you that that bullet was, in my opinion, fired at a distance greater than one foot.



Q That is as near as you can go? A That is as near as I can come.

Q Now, doctor, did that bullet go downward? A That bullet went almost straight across.

Q Was it deflected when it struck the spinal column? A There was no deflection in either bullet. They plowed their way straight through.

Q Was there a deflection when it struck the spinal column? A No deflection.

Q How can you tell that? A By the anatomical description of the wound passing straight through with enormous velocity.

Q There has been evidence in this case that there were a number of shots fired, from the windows, at a distance from the place where this man was struck. What I am getting at is could you tell whether, from your examination, if that bullet flew a few feet or twenty or thirty feet? A It depends on the type of the gun. Now, I am assuming, from my autopsical experience, that the bullet which produced this was over a .38-calibre size.

Q You can tell that from the size of the wound? A I assume that, not so much from the size of the wound, but from the fact we have a penetrating wound passing through the body, passing through the spinal column and through a rib and coming through with force enough to force a handkerchief out of the pocket. As a rule, .38 calibre, either lead or steel-jacketed bullets, they usually do not pass clean through the body, to that extent, and they usually lodge in the body, and therefore I am assuming in this case the bullet was over .38-calibre in size.

Q The handkerchief sticking out of the pocket was what you based your belief on that the bul-

let entered from the rear? A Yes, that is one point only.

Q Is there any other point? A Yes, there are others. In the wound of exit in the skin, six inches below the axilla, after fracturing the ninth rib and coming out in this quarter-inch wound there is, sticking out of the wound, a little piece of subcutaneous fat, showing that the direction was from back forward.

Q But there is absolutely no question that the bullet which struck Mr. Condit came from the back? A No doubt at all.

Q And it could not have been fired if he were facing a person—by a person who was facing him? A It was fired from the back.

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EDWARD T. SCHANCK, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Where do you live? A 287 Broad street.

Q And where do you work? A Reid Ice Cream Corporation.

Q How long have you been with the Reid Ice Cream Corporation? A Three years.

Q And at what plant or office of that corporation have you been employed? A The Newark branch, 316 Mt. Pleasant avenue.

Q And what, in general, were your duties on the 19th day of July of this year? A Cashier.

Q Did you get together some money for deposit that day? A I did; yes, sir.

Q At about what hour? A About a quarter to nine or nine o'clock.



Q I show you two slips of paper and ask you if you recognize them? A I do.

Q What are they? A Deposit slips, duplicate deposit slips, or triplicate, rather.

Q I have two slips of paper. I do not know whether these are in your handwriting, or whether they were made up in my office; will you please state? A This one is in my handwriting.

Q This is not? A This is not.

Q What is this? A That is a division of the two deposits as to checks and cash.

Q How much was there cash making up the cash part of this deposit? A The actual cash was $7,944.13.

Q And how much did the checks total? A $6,582.53.

Q What did you do with this cash and these checks? A Well, the first thing I did was to balance the drawer for two days, which was Saturday and Sunday, and wrap the money in different species and make up the deposit slip in the triplicate form, two for the bank and one for the branch office, and I gave the bag to Mr. Condit.

Q You say you gave the bags to Mr. Condit? A I did.

Q Did the bags have anything in them when you gave them to Mr. Condit? A The money; yes, sir.

Q Did you put the money in the bags? A Yes, sir.

Q That is this seven thousand odd dollars in cash that you have spoken of, isn't it? A I did; yes, sir.

Q And I think it was six thousand and odd dollars in checks that you mentioned? A I did; yes, sir.

Q How many bags? A Two bags.

Q Now, about what time did you give them to Mr. Condit? A As to time?

Q Yes. A Offhand I cannot say, but I should judge around ten o'clock, ten minutes to ten.

Q And where in the Reid plant did you give it to him? A In the cashier's cage.

Q And where is the cashier's cage? A It is in the east side of the office.

Q On which floor? A The second floor.

Q The east side, I take it, is the side away from Mt. Pleasant avenue? A Correct.

Q Did you see what he did with these bags? A I did not.

Q Did he leave your office or did he stay there? A He left it.

Q Did Mr. Duff leave with him? A That I cannot say.

Q Now, after he left that office did anything happen that attracted your attention? A Yes, sir; about a minute or a minute and a half, maybe two minutes, I heard three shots; two in quick succession and then a pause and a third shot.

Q Did they appear to be in the building or outside or couldn't you tell? A Outside, it appeared to me.

Q What did you do, if anything, then? A When I heard the first two shots I grabbed a gun and went downstairs.

Q You had a gun in the cashier's cage? A I did; yes, sir.

Q You went downstairs. Did you go out of the building? A I did; yes, sir.

Q I show you Exhibit S. 5, which appears to be a picture of the Reid ice cream plant, and ask you if that shows the door that you came out?



A I came out of the employees' door, the southerly of the two.

Q The southerly door of the door, that is the door shown on the right of the picture? A Correct.

Q What did you see when you got out there? A The first thing I saw was Mr. Seigel.

Q Where did you see him? A At the Chevrolet car, sitting in the car.

Q Did you see Mr. Condit? A I saw only his head and shoulders.

Q Where was his head and shoulders? A Lying on the ground, or pavement, rather.

Q Did you see the Chevrolet car? A I did; yes, sir.

Q Where was Mr. Condit with reference to the Chevrolet car? A His head and shoulders were a little bit to the front—the right front wheel of the Chevrolet car.

Q Did you notice a car going north on Mt. Pleasant avenue? A I did.

Q How far away was it, about, when you noticed it? A Oh, approximately 250 to 300 feet.

Q Did you notice the license number of that car? A I did.

Q What was it? A D1926.

Q What kind of a car did it appear to be? A It appeared to me as a Pierce Arrow.

Q Of what color? A A dark green or bluish green.

Q What did you do then? A I jumped over the porch; that is the narrow porch from the employees' door and onto the sidewalk and into my car and proceeded in pursuit.

Q Where was your car? A May I show it on the map?

Q Yes, if you will, please. A This is the porch right here; I was parked on the sidewalk.

Q Just north of the porch parked on the sidewalk? A Correct.

Q In which direction was it facing? A Facing north.

Q How far did you pursue the car? A Oh, about three blocks, two blocks.

Q Did you see what became of it? A No, I did not.

Q Did you see it turn off? A No, I did not see it turn.

Q Was it several blocks in front of you when you last saw it? A Yes, sir.

Q And was it going at high speed or slow or what? A High speed.

Q You did not fire any shots with your gun, did you? A I did not.

Q You did not get a view of any of the men in the Pierce Arrow? A I did not.

Q Did you see the bags on the seat or anywheres—the money bags? A After it left my possession in the office?

Q Yes. A No, sir.

Q Have you ever seen them since? A No, sir.

Q Can you describe those bags? A One bag was about twelve to fourteen inches long, a sort of yellow in color, or tan, the same as a tan pair of shoes, and about eight inches in height, I believe, and the other one was a much darker tan about eighteen inches long and about eight or ten inches in height, about twelve inches wide, with the initials N. J. I. C.

Q They were leather bags or in the nature of leather? A Yes, sir.



*Cross examination* by Mr. McGeehan.

Q I understand, then, you were the first to reach the street from the Reid plant? A Yes, sir.

Q And at that time the car was 250 or 300 feet away? A Yes, sir.

Q These bags—I did not quite catch what you said as to whether one contained checks and one contained cash? A One, the Saturday deposit, was in the small bag and the Sunday deposit was in the large bag; in other words, two distinct deposits.

Q What were the denominations of the cash? A They were wrapped up in the respective denominations, such as $500 in twenties, $250 in ten and $50 in singles or $100 in two-dollar bills, and the change was wrapped up as we always wrap it, $10 in nickels, $10 in quarters, and so forth.

Q Then, the bills were all of small denominations? A No, I wouldn't say so necessarily.

Q Tens, twenties and fifties? A No fifties, hardly ever fifties.

Q Twenties are about the highest; is that right? A That's right.

Q Was the car going fast when you got out there? A Which car are you referring to?

Q The one that you saw 250 or 300 feet away. A Yes, sir.

Q Now, you say you fired no shots? A No, sir.

Q Was there any firing going on? A There was.

Q Later? A Yes, sir.

Q Or was it right then? A It was as I was getting in my car and going away.

Q As you were getting in your car and going away? A Yes, sir.

Q How many shots were fired then? A Four.

Q Four shots? A Yes, sir.

Q Out of the window of the Reid plant? A I did not know where they came from at the time, but I found out since then they came from the window.

Q You did hear four shots? A Yes, sir.

Q That was when you were about to start off in your car? A Yes, sir.

Q When you got down he was still in his automobile? A Yes, sir.

Q How long have you been acting in your present capacity for the Reid Company? A As cashier?

Q Yes. A About a year, maybe a little more.

Q How long have you been connected with the Reid Company? A Three years.

Q Do you know an Andrew De Phillips? A I do, yes, sir.

Q He is an employee of the company? A Yes, sir.

Q Former paymaster? A Former cashier.

Q He still is employed by the company? A Yes, sir.

Q Do you know his brother, Tony De Phillips? A I do not.

Q Do you know that he has a brother, Tony De Phillips?

Mr. Bigelow: Objected to as not cross examination.

The Court: Sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.



Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

*Re-direct examination* by Mr. Bigelow.

Q Mr. Schanck, you say you were the first to reach the scene? A Yes, sir.

Q Of course, Mr. Duff got down there before you? A Oh, yes, that is understood; Mr. Duff was sitting in the car.

Q And do you know whether as a matter of fact you reached there before Miss Gillard and Miss Hanley? A I did.

Q And you did hear, I think you said it, from your office, three shots? A Yes, sir.

Q And after you got down you heard the other shots? A The other four after I got into my car.

Q Where did they seem to be fired from, from the noise?

Mr. McGeehan: Objected to.

The Court: Overruled.

Q Do you know where they were fired from? A I do now, but not at that time.

Q They were fired while you were, or after you reached the door leading to the street? A No; after I was out in the street.

Q And then they were fired when you had seen Mr. Condit lying on the street? A Oh, yes.

Q What is Mr. De Phillips' position now with the company? A Mr. De Phillips is the superintendent of delivery; in other words, he has charge of all the drivers.

Q He has been promoted, in other words? A He has.

Mr. Bigelow: I offer in evidence the triplicate deposit slips which have been identified by Mr. Schanck.

Mr. McGeehan: I did not object to the witness using them, to refresh his memory from.

The Court: Do you object to these, Mr. McGeehan?

Mr. McGeehan: I do, because they are not competent kind of evidence. I have no other reason for it.

Mr. Bigelow: I will withdraw the offer.

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RAYMOND C. McKENNA, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Mr. McKenna, where do you live? A 150 West 104th street, New York.

Q And where are you employed? A Reid Ice Cream Company, Mount Pleasant avenue, Newark.

Q How long have you been employed there? A I have been employed at that plant about a year and a half.

Q Were you at that plant on the 19th day of July of this year? A I was.

Q Do you recall anything that attracted your attention the morning of that day? A I do.

Q Where were you at that time? A I was at the center of the office, just about to take a drink of water.



Q Where was the office? A On the second floor.

Q That is the building on the east side of Mount Pleasant avenue? A Yes.

Q And you were about in the center of the office? A Yes.

Q Does the office cover that whole floor? A Why, with the exception of the stairway, the front part of the office covers it, yes.

Q What did you hear, or what happened that attracted your attention? A Why, I heard one of the girls in the office say—

Mr. Kavanagh: I object.

The Court: It might be part of the *res gestea.*

Mr. McGeehan: It might be, but third parties are not a party to the act. It is not binding upon the defendants.

Mr. Kavanagh: Same objection.

Defendants' counsel pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q You heard one of the girls say something? A Yes.

Q What did you do then? A I walked to the window facing the street.

Q Were you armed? A No.

Q Did you look out the window? A I did.

Q What did you see? A I seen a Chevrolet coupe and a large blueish green touring car and standing between the two was a man with a gray suit and gun in his hand, large calibre, and I

saw the upper part of the shoulders of another man throwing a bag into a Pierce-Arrow limousine.

Q Now, the Chevrolet you speak of, was that the Chevrolet that Mr. Condit used to use? A Yes.

Q And that was on the sidewalk facing south? A Partly on the sidewalk facing south.

Q And the other car, which I think you said was green—blueish green, something like that—was opposite the Chevrolet? A Facing north.

Q And where was this man with a gun of large calibre? A He was standing between the rear of the Chevrolet and the forward part of the Pierce-Arrow.

Q What did he look like? If you can describe him. A I did not see his face.

Q Did you see the face of the man whom you say was throwing the bag into the car? A No.

Q Did you see Mr. Condit at that time? A Not at that time, no.

Q Or Mr. Duff? A No.

Q Can you describe the man who was standing with the gun in his hand? A Why, I imagine he is about—

Mr. McGeehan: I object to what the witness imagines.

The Court: Tell us what you saw.

A The man I saw was about five feet ten inches, about 160 pounds, dressed in a gray suit and a sailor's straw hat.

Q Is that the ordinary stiff straw hat? A Ordinary stiff straw hat.

Q Not a Panama? A No.



Q What did you do then? A I immediately went to the cashier's office and got a gun.

Q And then? A I returned and when I got back to the window the car was going north on Mr. Pleasant avenue.

Q Did you fire off your gun at all? A I did.

Q In which direction? A North up Mr. Pleasant avenue.

Q You did not fire it directly down in front of you? A No.

Q How many shots did you fire? A Four.

Q Did you see the license number of that car? A No.

Q Can you tell whether any of the men in Court are or are not either of the men that you saw that morning? That is, the man with the gun, or the man that was throwing the bag in the car? A I cannot.

Q You cannot say one way or the other? A No.

Q Can you describe the man who was throwing the bag into the car? A Why, hardly. All I could say he had a blue suit on and straw hat. I only saw his head and upper part of his shoulders.

Q What did you notice about his shoulders and head, if anything? A I should judge he was thick set and heavy; he might have been tall and might have been short, but I judge he was heavy.

*Cross examination* by Mr. McGeehan.

Q You hurried for the gun? A I did, yes.

Q And got to the window pretty quickly with it? A Fairly so.

Q But at that time the car was some distance up the street? A On its way.

Q Several hundred feet? A No, about a hundred.

Q Now, didn't you fire any shots straight out through the window? A No.

Q Didn't a hole appear immediately after in the glass window of the place across the street, which is still there? A Not to my knowledge.

Q Is there a manufacturing place directly across from the office owned by a man named Liebstein where they make machines or repair second-hand machines? A I think there is a place where they buy and sell second-hand machinery, a foundry of some kind.

Q And either in the windows or doors of that place are there small panes of glass? A There are windows there, but I cannot say whether they are small or not.

Q Now, are you sure you did not fire straight out from the window and have one bullet go there? A No, sir, I am positive.

Q You don't know where your bullets hit? A No, I do not.

Q Now, do you see a window in Exhibit S11 containing small panes of glass next to the sign on that building, "New and Used Machinery"? A Oh, yes, that's right.

Q That window is about directly across from the office, isn't it? A That's right.

Q Now, do you know whether you fired in that direction? A I know I did not.

Q Do you know whether you fired down at where the Pierce-Arrow had been? A No, I did not.

Q And if a bullet went through that window when you were firing from the windows upstairs it was without your knowledge? A Absolutely.



Q And if any bullets struck down where the Chevrolet was when you were firing it was without your knowledge? A Yes.

Q Now, to you, that appeared to be a large, greenish touring car, wasn't it? A A closed car of some kind.

Q By touring car you don't mean an open car necessarily, you mean a pleasure car, is that right? A Yes, sir.

Mr. Bigelow: I don't recall he said that.

Mr. McGeehan: He did say touring car but that was probably a mistake in description.

Q It was a Pierce-Arrow car, was it? A I imagine it was a Pierce-Arrow car.

Q Of course, you were pretty well excited when you went to the window? A The second time more so than the first.

Q You were not used to firing a gun? A Well, I won't say yes and I won't say no.

Q Have you fired guns before? A I have been in the Army and with the National Guard and I carried a gun for several years.

Q Have you used revolvers much? A Not very much.

Q Have you shot a revolver before? A Oh, yes.

Q This car that was facing the opposite way from the Chevrolet coupe, how close from the Chevrolet would you say it was? A Well, two or three feet.

Q Two or three feet? A Approximately.

Q When looking from the second floor, it was the second floor you were on, wasn't it? A That's right.

Q You would be looking down on this scene? A That's right.

Q That is why you saw the head and shoulders but were not able to see the faces? A Right.

*Re-direct examination* by Mr. Bigelow.

Q I don't think I asked you whether you know who it was that made the remarks which first drew you to the front window? A Do I know who it is?

Q Yes. A Yes, I do.

Q Who was it? A Helen Gillard.

*Re-cross examination* by Mr. McGeehan.

Q Did you hear any shots? A Why, I heard one sound that might have been a shot or might have been a backfire, I did not pay any attention.

Q The thing that attracted you was someone said something about shots, is that right? A That's right, yes, sir.

Q Were the windows closed before you went to them? A No, they were open.

Q Are there desks at those windows? A There is at some.

Q Which windows are there desks at? A Why, I cannot say unless you give me a diagram of the office layout.

Q Going to Clay street there are several windows across the buildings, aren't there? A Yes, sir.

Q Just take a look at this, please, Exhibit S12 and tell us which of those, if you can from that, there are desks at. A Why, there is a desk right here.



Mr. McGeehan: Indicating the first window towards Clay street.

Witness: And there is a girl sits here with her back to the window.

Q And the desk is away from the window, is that right? A Yes, sir.

Q Are there any windows with desks right up to them? A Oh, there are two desks right between these windows, partly covering the windows, maybe a few inches or a foot, possibly.

*Re-direct examination* by Mr. Bigelow.

Q What is the calibre of your pistol? A Why, it is a .32-calibre.

*Re-cross examination* by Mr. McGeehan.

Q Does it use lead or steel bullets? A That I cannot say.

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ANTHONY J. CARUSO, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Where do you live? A 323 Sussex avenue.

Q What business are you in? A I am not in any business; I work on the railroad. That is my brother who I had excused yesterday, which I spoke to you about.

Q Were you in the vicinity of the Reid plant on Mt. Pleasant avenue on the morning of July 19, 1926? A I was.

Q Who were you with then? A I was with my brother for one.

Q What business was your brother in at that time? A Well, he is in the rigging business. He handles machinery.

Q And was he in the rigging business at that time? A He was.

Q And were you assisting him on that day? A I was.

Q Your brother was here and was excused by me, was he not? A Yes.

Q Did you and your brother have with you an automobile or a truck or anything that day? A We had a Mack truck.

Q Where did you put the truck on or about Mt. Pleasant avenue? A Well, in front of the United Rubber Machinery Company. There is a driveway that goes right into the storage part, there is a driveway there—it is not a driveway, the gutter is down, but it has sliding doors just like a garage.

Q I show you S. 11, an exhibit in this case, a photograph, in which there appears to be a truck. Is that the same kind or similar truck to yours? A That is my brother's truck.

Q Do you know whether that is the same truck? A It is.

Q Now, you say that you put the truck in some relation to a driveway? A Yes.

Q Where? Looking at this map, S. 1, if you can tell, where was that driveway? A I think this is the factory. It is right opposite Reid's.

Q The red indicates the brick building and the yellow indicates the frame building. A This is the one; about in the center is the driveway.

Mr. McGeehan: I have no objection to your leading the witness.



Q I show you again S. 11. Is the building and driveway shown on that picture? A Well, the building is shown, and what I said was the driveway is shown.

Q Which building is it, the three story? A Only two stories.

Q On which side of the photograph? A On the left.

The Court: I think the witness said he would call it a driveway.

Witness: It is like a garage. They have sliding doors there, and you can go in, but it is not really a driveway.

Q Is it this large doorway where the driveway is? A Yes.

Q And in what position was the truck relative to that driveway? A Well, the same position as on the photograph.

Q Did you hear any shots fired or see any excitement there that morning? A I did.

Q Where were you at the time? A Well, we were really done with the job that we had started in the—there is an office to the left of the building like the beginning of the building when you come to Clay street, the office is on that side of the building.

Q You were in the office? A Well, the outer hallway. There is a partition and this is sort of a hallway.

Q And you heard something? A I did.

Q What did you hear? A Well, I heard a noise, and it sounded like the backfiring of a truck or an automobile.

Q Did you remain in the outer office or did you go out? A We did not go out.

Q How long did you remain there, about? A Well, we remained there until I heard some more noise like shooting, and then that attracted my attention more so than the first time, because they were a different noise than the previous.

Q Then what did you do? A Well, we were really done with the work and I really did not have to stay there, so I walked to the door.

Q And when you walked to the door, what did you see? A Well, the first thing I saw was a man at the middle window of the Reid factory with a revolver in his hand.

Q Did you see any automobile? A Well, I saw the Chevrolet car.

Q Did you see a Pierce-Arrow car or a car of that kind? A I didn't.

Q It was a Pierce-Arrow car or a car of that kind? A I don't know.

Q Did you go down to the Reid ice cream plant then? A Where?

Q Did you go down toward the Reid ice cream plant then? A Yes, sir. I went across the street to the Reid, to where the Chevrolet was.

Q What did you see there, if anything? A Well, there was a man lying down almost in front of, well, the way the car, the position of the car was going, it was the front wheel nearest to me.

Q And the man was lying down? A He was.

Q By the front wheels nearest to you? A Yes, sir.

Q That is the front wheel of the Chevrolet? A The front wheels of the Chevrolet.

Q Did you go to the hospital with him? A I did.

Q In whose car did you go? A Well, I afterwards found out his name was Mr. Seigel.



Q Were you here in court when Mr. Seigel testified? A I was.

Q And he was the man who drove the car?

Mr. McGeehan: Objected to as leading.

The Court: It has been answered.

Q I show you Exhibit S. 15 and ask you if that appears to be a picture of the man who was lying in the street? A It is a close resemblance.

Q How did he get into Mr. Seigel's car to go to the hospital? A How did I get in?

Q How did the man shown in this picture get in? A Well, he was—I helped, I assisted—well, I didn't assist him, he was slumped down and I held him by his shoulders some place at the top of him and I helped him in; I rested his body on the running board so I could go in first and then he was lifted in afterwards and laid with his head about here (indicating).

Q Your truck was in the position you have described during this whole time? A Yes, sir.

*Cross examination* by Mr. McGeehan.

Q How long is your truck, by the way, Mr. Caruso? A The truck does not belong to me; I only help occasionally. It is my brother's. It is a Mack truck, a full sized one.

Q You pointed out this building as being where it was? A Yes, sir.

Q That it was up further than in front of the Reid office; didn't you mean to point out the building up here? A No, sir.

Q Was it directly across from the Reid place? A Well, they both run the same size. What I mean by directly across was the office

of the United Rubber Company is directly opposite the office here of the Reid Ice Cream.

Q You know the little building that the Chevrolet was standing in front of? A Yes, sir.

Q You know it has a stairs in front of it? A It has.

Q And was your truck right across the street then? A No, sir.

Q Then it was not in front of this building? A Well, I wasn't by the truck, I was in the office, in back of the office; that is, towards the rear; it has a little hallway right above the stairs of the office door and if you want to go into the office you open another door to the left and that would make it a hallway.

Q What I am getting at is your truck was not straight across from there; it was somewhere up around here (indicating on map)? A No, sir, it is directly in the middle of the red brick building.

Q Of this red brick building? A Yes, that is where the driveway is.

Q Then, you are sure it was straight across from the stairway of the middle of the Reid office; is that right? A Not directly; no, sir.

Q I am speaking of the truck. A No, sir. The truck was just in the middle of the building, of the red brick building, that building is above—

Q Up there you mean? A No, sir.

Q Just show us. A (Indicating).

Q Yes, now, the truck was there, you told me that, and I thought it was a mistake, and it was straight across from the middle of the office building across the street, wasn't it? A No, sir.

Q Where would straight across in the middle of that stairs be? A That middle of that stairs is almost on a line with the office of the United Rubber Company.



Q You think the map is not right then? A Well, I know—

Q If your truck was there then it would be straight across from the middle of the Reid office, wouldn't it? A Will you please say that again?

Q If your truck were right there where you pointed to, then it would be straight across from the middle of the porch of the Reid building, wouldn't it? A Well, no; it would not be in the middle of the porch; I don't know how big the porch is.

The Court: What does the picture show?

Mr. McGeehan: The picture shows it up a distance from it, doesn't it?

Witness: To the truck?

Mr. McGeehan: Yes.

Witness: Well, yes, the truck is a little above the office. I think I said that.

Q The truck was up aways from Clay street beyond the Reid office porch, wasn't it? A Yes, sir, some.

Q How, how much, about? A Well, I don't know.

Q Well, fifty feet? A It could not have been much.

Q Fifty feet? A No, it might have been ten. Well, that is close enough, ten feet.

Q You think it shows in the picture only ten feet up from the middle of the stairs, do you? A Well, what I mean by ten feet is the office part of Reid's.

Q Now, listen, we are talking about the office of the Reid Ice Cream Company? Do you know where that is on Mt. Pleasant avenue? A Yes. That is not the office, that is the whole building.

*Anthony J. Caruso, cross.*

The Court: Do you know where the Reid office is? Point on that map, if you can.

Witness: The whole building is here, and the Reid office is in the building.

Q Now, wasn't your truck up from there, away from Clay street, like it shows on the picture?

The Court: Do you know what that yellow building is?

Q Is that a wood working shop? A This is the wood working shop.

The Court: What is the next red block?

Witness: The next red block is the United Rubber Company, where the truck was.

The Court: Where is the Reid Ice Cream plant?

Witness: It has one building here.

The Court: Has it any on the other side of the street.

Witness: Up above the United Rubber.

The Court: You think that first red block on the map is the United?

Witness: It is.

The Court: And you think your truck was backed in some point back of that building?

Witness: About in the middle.

Q Was your truck backed where it was shown in the picture? Near the doors of the building marked Machinery Exchange? A Well, I didn't look. If you will let me look at the picture.



*Anthony J. Caruso, re-direct.*

Q When you left it there? A Yes. We unloaded it there and put it in the door, right the way it is there.

Q In the door of the building marked Machinery Exchange; is that right or not? A Machinery Exchange, yes.

Q Now, do you think those doors are straight across from the center of the porch on the Reid office building? A No, they are above that.

Q Then you do not think your truck was right across from it? A The truck was straight across from the doorway. It was directly opposite.

*Re-direct examination* by Mr. Bigelow.

Q Forget all about that map, and just as you recall this 19th day of July. As I understand it, your car—your truck was backed up against the westerly side of Mt. Pleasant avenue? A It was.

Q And when you looked out afterward you saw a Chevrolet car on the opposite side of the street with a man lying beside it? A It was.

Q Was this Chevrolet car nearer to Clay street than your truck or was it further away? A The Chevrolet car was nearer to Clay street.

Q About how much nearer, if you can make an estimate? A Well, could I judge the distance between the two cars, or just the distance all the way to the corner?

Q Judge a distance in this room. Was it further from you to the doorway or nearer, the distance between the two cars? A The distance between the two cars was nearer than this room.

Q The difference between the two cars was less than the distance between you and the door-

way there? A Well, a little bit; not much; maybe a few feet.

*Re-cross examination* by Mr. McGeehan.

Q Now, Mr. Caruso, when you drove to the hospital—I will withdraw that. When you went to the hospital with Mr. Condit in the car, with Mr. Seigel, what part of the way did you drive that car? A Well, Mr. Condit was lying on me. I could not drive.

Q Did your brother drive the car part of the way? A He didn't go.

Q Did you drive the car part of the way? A No.

Q Sure about that? A Positive.

Q Did Seigel drive it all the way? A Yes.

Q You are sure of that? A Yes, positive.

Q Did he ask you to drive? A We didn't speak about the driving.

Q You did not speak about driving? A No.

Q Now, the shots that you heard that made a different noise from the first shot you heard caused you to walk to the door, that is when you walked to the door? A Yes.

Q And you saw a man with a revolver at one of the windows of the Reid place? A At the middle window of the top floor.

Q The second floor? A Yes.

Q Was he shooting at that time? A Well, I saw the fire out of the last shot that he fired.

Q Do you know where that hit? A No, I do not know where it hit? I didn't look.

Q Were you working then—you were working on the safe for some time? A Well, we had been working on the safe.

Q Now, do you know if, after the shooting, there was a hole in one of the windows of the



building marked the United Rubber and Machinery Company and indicating the window below the word Rubber? A Well, at that time I did not notice. At that time when I went out I did not notice.

Q No, but when you came in you knew it? A No, sir.

Q You have seen that bullet hole there since, haven't you? A I seen it there about two or three weeks ago.

Q It is still there, is it? A The hole is, yes, sir.

Q You never saw that before the shooting? A No, sir, I did not look.

Q Did you see it right after the shooting? A No, sir.

Q Who runs that place, who is the owner of that place? A Well, his name is Liebstein.

Q That window that I just indicated to you is directly across, about the center of the Reid office building? A I was opposite the center of the Reid office building.

Q At any rate, wherever you were or your truck was, the window indicated to you is nearer to Clay street than your truck was, is it not? A Yes, it is.

Q And nearer by how much distance would you say?

Mr. McGeehan: I will withdraw that, we can see from the picture.

Q Now, when your truck was there, the overhang of the rear was on the sidewalk, is that true? A It was.

Q And it extended into the street by the extent of the wheel base of the car plus the Mack

hood that it has on, is that right? A Yes, just the way it is.

Q Now, there was plenty of room for a car to drive in front of that, between it and the curb, going in a northerly direction, wasn't it? A Yes, sir.

Q So the car could go through there without riding on the sidewalk? A Oh, yes, one way, any kind of a truck could get through.

*Re-direct examination* by Mr. Bigelow.

Q You say you saw this hole in the window two or three weeks ago? A Yes, sir.

Q Will you describe the hole as to size and so on? A The windows are small, you would call it a small hole, a very small hole.

Q As big as a pencil? A Well, larger than that.

Q As big as a half dollar? A Slightly smaller, I believe.

Q Jagged or neatly round? A Well, there was a little jag, not much, if it was.

*Re-cross examination* by Mr. McGeehan.

Q How did the hand move in the second floor window, the hand of Mr. McKenna, the hand with the gun, what were his motions when you came out? A There weren't any motions, the revolver had just been fired in a northerly direction as far as I could make it.

Q As far as you could make it, but was his hand shaking, did he seem nervous and excited over it and waved the gun in his hand? A It was not waved, and I don't know whether he was nervous or not.



Q You mean to say he wasn't moving that gun in any direction? A Well, the shot had gone off, he stopped shooting and he wasn't waving.

Q Didn't he still have the gun out of the window then? A Up to the fourth shot?

Q Yes. A I saw the firing of the gun and the gun was still out there.

Q Was Mr. Liebstein right there with you before you came out? A In the outer office, you mean?

Q Yes. A He was.

Q And a young lady stenographer? A The young lady was there, yes.

Q Mr. Liebstein looked out of the door before you did, didn't he? A No, sir.

Q Are you sure of that? A Positive.

Q Didn't he say, "Don't go out there, he has a gun and is shooting like crazy, you will get shot if you go out," words to that effect? A I didn't hear him if he did.

Q He was right at the front door with you, though, Mr. Liebstein? A He came right after me.

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JAMES B. HUBERT, sworn in behalf of the State.

*Direct examination* by Mr. Fisch.

Q Mr. Hubert, where do you live? A I live on Northfield Road, St. Cloud, West Orange.

Q How old are you? A Twenty-one.

Q What is your business? A I am a bookkeeper.

Q And by whom are you employed? A The Albert Company.

Q That is a foundry company, is it? A A foundry, brass foundry.

Q And were you employed by them on the 19th of July this year? A I was, sir.

Q I show you Exhibit S10 and ask you if that is a photograph of the plant where you were employed at that time? A It is.

Q And that is on Clay street, is it? A Yes, sir.

Q Now, do you remember the 19th of July? A I do.

Q Did you go to work that day? A I did.

Q What time did you go to work? A I got in there after 8 o'clock.

Q How long after 8 o'clock? A It was between 8 and 9, I might have stopped for the mail.

Q What is that? A It was between 8 and 9, I might have stopped for the mail that morning.

Q So you reported for work between 8 and 9? A Yes, sir.

Q When you reported for work that morning did you notice anything? A I noticed a Pierce-Arrow car, green colored, standing slightly down from the shipping room door against the curb.

Q That is the shipping door? A It is directly in the center.

Q Of the building where you were employed? The foundry? A Yes.

Q What type of car was that, an open car? A No, it was a closed car.

Q And did you notice anybody in the car? A As far as I could see there was a chauffeur



in the front. At that time I did not take particular notice. I thought it might be a customer that was parked there waiting for somebody, or a man waiting for his wife.

Q There was a chauffeur in the front? A Yes.

Q You saw a man at the wheel? A Yes.

Q How was he dressed? A Chauffeur's uniform. He had a regular chauffeur's uniform hat.

Q Well, a hat or cap? A Well, a cap.

Q With a peak on it? A With a peak on it.

Q Did you notice anybody else in the car at that time? A Not at that time.

Q Did you pay any particular attention to it at that time? A Well, I admired the car and took a glance at it.

Q You admired the car more than anything else? A Yes.

Q Did you notice anybody sitting in the back seat at that time? A I didn't.

Q Then what did you do? A I went in the office and took off my coat and started to go about my business.

Q And then did you come out after that? A I did.

Q How long afterwards did you come out? A Well, it may have been around 10 after 9 or so. I cannot be exact.

Q Well, how much time had elapsed? A Well, I took off my coat and probably I looked at the mail and then went outside.

Q Well, was it five minutes? A Well, it was within fifteen minutes.

Q When you came out within fifteen minutes, what did you see? A Well, I went to the scale, the scale was right out at the door, and I went over to the scale and looked around to see

what was to be gotten out that morning. We make New York deliveries Monday morning.

Q What did you see? A Well, I looked around and saw goods to go out and I told the men what to get out.

Q What did you see out on Clay street? A I didn't look out on Clay street.

Q Did you look over on the corner of Mt. Pleasant avenue and Clay street? A No, I do not think I took notice at all.

Q At that time, was that car still parked in front of your place? A I don't know. I didn't look.

Q Well, did you see the car after the first time you saw it? A I did.

Q When was the second time you saw it? A Well, when our truck was being loaded, I saw the car there.

Q Was anybody in it at that time? A I didn't notice.

Q Did you see anybody across the street? A There were two men across the street.

Q Whereabouts? A In front of the gasoline station.

Q That is corner of Clay street and Mt. Pleasant avenue? A Yes.

Q And what were these men doing? A They were talking together.

Q And what did they look like? A Well, they were not young fellows, they were men full grown, and I could not say as to their build, but they were about five feet six or seven. They had on dark suits and straw hats and they were standing there conversing just as if they had just met on the street.

Q Standing there talking to one another? A Yes.



Q And both had on straw hats? A Yes.

Q And how about their build, were they of the same build or not? A Well, I couldn't say exactly.

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

Q Was one taller than the other? A I believe they were about the same size.

Q That is your recollection? A Yes.

Q Now, then, later on, did you have occasion to cross the street? A I did.

Q About what time was that? A That was about half-past nine.

Q Well, now, when you crossed the street did you see that Pierce-Arrow in front of the place? A It was still standing there.

Q And did you have occasion to pass that car? A I passed between the Pierce-Arrow and our truck.

Q Your truck was in back of it? A In back of it on a slant.

Q And where did you go? A I went to the saloon across the street.

Q How long did you stay in the saloon? A I was not there any longer than five minutes.

Q What did you do in the saloon? A I had a cigar and a glass of ginger ale.

Q When you came out, what did you notice? A Well, I was watching out for the traffic and I had my attention on our truck that was being loaded up. I had my mind on that.

Q And the truck was there? A The truck was there.

Q And was the Pierce-Arrow there? A It was still there.

Q Did you pass between the truck and the Pierce-Arrow? A I passed between the truck and the Pierce-Arrow the same way I went over.

Q When you passed it then, did you notice anybody in the sedan? A There was a man sitting on the right-hand side of the sedan.

Q In the front or back? A Back.

Q What was he doing? A He was slumped down smoking a cigarette.

Q How was he dressed? A He had a dark suit on and a straw hat.

Q How about his build? A He was heavy built.

Q Did you see his face? A I didn't get a chance, because he was looking down the street.

Q Down what street? A Clay street. They call it Clay. It runs down to Bailey and Alling Lumber Yard.

Q On the same side as your plant is or the other side? A No, the same side.

Q What did you do? A I passed between the truck and the Pierce-Arrow, and noticed the chauffeur was in the front seat the same as he was before, and I thought the same as I did before, that he was waiting for somebody in the building doing business or a man waiting for his wife there.

Q And you went into the office? A I went into the office.

Q Now, then, subsequently, were you at the window of your plant a little later on? A Not until after the hold-up.

Q Well, do you remember talking to Mr. Pierson? A Well, yes, before the hold-up when he pulled in. He went to the back and he pulled in while that car was parked in front of our place.

Q Who is Mr. Pierson? A He is my boss.



Q And he pulled in with an automobile? A Yes, a Studebaker.

Q And whereabouts did he pull in with reference to the Pierce-Arrow? A Well, the Pierce-Arrow moved in the meantime, it was back further up the street.

Q Did they move further up the street? A Toward Broad.

Q Toward Broad street? A Yes.

Q You mean it backed up? A I don't know. I don't know how it got there.

Q Well, it was nearer to Broad street than it had been before? A It is, yes.

Q And then when Mr. Pierson came in were you talking to him at the window? A He was talking to me; he was standing opposite a window and he was talking about something or other that happened at the back, some business.

Q Then, what, if anything, did you notice out on Mt. Pleasant avenue? A I noticed people running towards the Reid plant.

Q Then what did you see? A I saw a girl pick up a man, the man was lying in the street and she was just about to pick him up.

*Cross examination* by Mr. McGeehan.

Q Now, I understand you to say, Mr. Hubert, that in the front of the car there was a man in chauffeur's uniform and cap? A Yes, sir.

Q And that you did not see anyone else sitting there in the front seat? A Not in the front seat; I did not take notice; I noticed the chauffeur because that is the man you generally look for when there is a machine standing there; a man at the driver's wheel. You generally take notice of him.

Q Did you notice what kind of a uniform he had on, this chauffeur's uniform that you speak of? A Well, it was a dark material, dark as my suit.

Q And what distinguished it as a chauffeur's uniform? A Well, the fact that it was—I don't know what you call it, it is pleated or not, with narrow pleats and chauffeur's hats of the same material.

Q How about the buttons on it, did you see them? A I did not see the buttons, because it was on the front of the uniform.

Q But you could see that the cap and uniform matched and the uniform was pleated and cut as a chauffeur's uniform? A Well, it passed through my mind that he was a chauffeur; that is what it looked to be represented to me as I saw him.

Q You gathered that from the chauffeur's uniform and the cap? A Yes, sir.

Q And not only the first time you saw him, this man sitting there in front, but on the several occasions that you passed the car did you at any time see anyone sitting alongside of him in the front? A I did not.

Q And as you recall it, you saw at one time one man sitting in the rear? A That's it.

Q There was no one else sitting in the rear except that man; is that right? A Not as far as I could see.

Q You did not look, I suppose, with any particular care or closeness, did you? A Not at the man; no, sir.

Q As you came to the plant you are due there, it was at 8:00 o'clock, was it? A I do what?



Q You are due at the plant at around 8:00 o'clock? A I am due between eight and half-past.

Q And sometimes you have to get something on the way and you get there later? A Sometimes I stop for the mail, but I do not get in any later than 9:00 o'clock.

Q Now, do you know about what time you got there this day? A I don't know exactly; no, sir.

Q Do you know whether you had stopped for the mail or not? A I believe I did stop for the mail, because that would be the only thing that would make me late.

Q At any rate, you are pretty sure, are you, that you got there before half-past eight? A No, I would not be positive; it was before 9:00; that I know positively.

Q It might have been as early as 8:00, might it not? A No, it could not.

Q It could have been as early as 8:30? A It may have been.

Q Now, you do know, after being inside about fifteen minutes, you came out about ten past nine, as you judge, is that right? A Yes, sir.

Q And when you saw that automobile before it had moved, as you testified before on Broad street, what part of this big building was it standing at, about where was it standing? A It was standing right here.

Mr. McGeehan: Indicating a point under-near the word "Albert" in the sign "The Albert Company" upon the picture.

Q Is that right? A Well, I should judge it would not be past this window here.

Q It would not be past the window that is right under the "Bert" or the word "Albert"? A That's right.

Q That is where you first saw the truck? A Yes, sir.

Q Now, looking at the map, do you know—the Albert Company is 81 and 85, isn't it? Yes, sir.

Q And the numbers are right on the building, are they? A Yes, sir.

Q And the truck then was standing, would you say right about there (indicating)? A Yes, sir, about there (indicating a point slightly east of about one inch on the map of a prolongation of the easterly line of Mt. Pleasant avenue on the southerly side of Clay street).

Q Now, the man that you saw standing over by the gas station, when did you see them first, if you remember? A When did I see them first?

Q Yes. A I noticed them when I came out to go across the street.

Q Was that the time when you came out about ten past nine? A No, it was not.

Q Not the first time you came out of the building? A No, sir.

Q About what time was it when you came across the street? A That would be about half-past nine.

Q And after you saw them that first time did you see them again? A I did see them again; yes, sir.

Q How long did you see them standing there? A Well, I did not watch them; I did not keep watching them, but about fifteen minutes later, after our truck pulled out of there, they were there then.

Q Still there? A Yes.



Q On the same corner? A Yes.

Q They were not then at any time that you saw them walking up and down in the block between Mt. Pleasant avenue and Ogden street? A No.

Q But they were over at the gas station corner, is that right? A Yes.

Q And there for at least fifteen or twenty minutes that you saw them? A Well, I saw them at intervals. When I came out I saw them. They were there those two times.

Q And would those intervals cover fifteen or twenty minutes? A Yes.

Q Of course, you do not know whether they left there in the interim? A I don't.

Q You do not know anything about the appearance of those men except their height and they seemed to be men and impressed you as not being young men? A Right.

Q And that they were both about the same size? A Yes.

Q Both as to height and weight? A Well, I would not say as to weight. They might have been of different build.

Q But they were both about the same height? A Yes.

Q Now, the move that the truck made was—I will withdraw that. The change in position of the Pierce-Arrow car was in a westerly direction and not in an easterly direction; is that right? A I don't know. I did not see the car move.

Q No, that is why I changed my question. The change in position, the different position that it took afterward from what it had first was a position west of where you first saw it and not east? A It was west.

Q Toward Broad street? A Yes.

Q Now, do you know whether the car of Mr. Pierson was in front of or behind the Pierce-Arrow? A Behind.

Q Behind it? A Yes.

Q Was that before the Pierce-Arrow had changed its position or after? A After.

Q So at no time was Mr. Pierson's car behind it before the position was changed as far as you know? A Yes, it was.

Q Then Mr. Pierson's car was behind it before the PierceArrow changed its position? A Not directly; our truck was between.

Q It was somewhere behind it? A Yes.

Q Or between the Pierce-Arrow and Broad street? A Yes.

Q Now, after the Pierce-Arrow had changed its position, was Mr. Pierson's car still behind it or forward of it? A Well, Mr. Pierson pulled out of there when the Pierce-Arrow was below the shipping room door and he went to the bank and then the car had changed in the meantime. I did not see it change, but he pulled in behind it after he came from the bank.

Q So both times he was behind it? A Yes.

Q But as far as you know, his car was not there at all when the Pierce-Arrow changed his position? A No, it wasn't.

Q Now, you said that you saw a man sitting in the back and that you did not look at him very closely or carefully at all; is that right? A Yes.

Q And he was sitting in the seat? A He was sitting in in the rear seat on the right-hand side.

Q Right-hand side? A Yes.

Q Did you see him through the rear window or side window? A Through the rear window.



Q What part of him could you get a glimpse of? A I saw the back of his head and across his shoulders.

Q Above the window bottom? A Yes, sir.

Q So you could not tell how tall the man was or how heavy or anything? A No.

*Re-direct examination* by Mr. Fisch.

Q I show you this photograph, Exhibit S. 10, showing a picture of this place you worked. Now, can you point out where the office is, where the shipping room is? A The center door is the shipping room door. This door is an entrance to an elevator and the door here goes upstairs.

Q That is the door on the right-hand side of the picture? A Yes.

Q Where was your truck? A Our truck was directly opposite the front door, the main door of the building, backed up to the curb.

Q And the Pierce-Arrow was in front of that truck? A It was to the left on this photo. It was nearer Ogden street.

Q Than the truck? A Yes.

*Re-cross examination* by Mr. McGeehan.

Q What color suits did those two men wear that you saw there on the gasoline corner? A They were of a dark material.

Q Would you say blue? A I wouldn't say whether they were blue or a dark brown or black.

Q But neither one had a gray suit on? A No, sir.

*John J. Bracken, direct.*

*Re-direct examination* by Mr. Fisch.

Q It might have been dark gray and you did not notice it? A It might have been and I not notice it; it was not of a light material.

*Re-cross examination* by Mr. McGeehan.

Q It could not have been a light gray or you would remember that? A Well, I wouldn't say. I would not swear to it, but it was not a light material that would attract your attention.

Q They impressed you as two dark suits that might have been dark blue or dark brown? A Yes.

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JOHN J. BRACKEN, recalled in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Mr. Bracken, referring to Exhibit S. 1, which you have already identified as the map you made, would you look at the red block on the westerly side of Mt. Pleasant avenue at the northerly end of the map and tell me—and you can refer to your notes if you want—how tall that building is? A That building is a two-story brick.

Q And how long does the two-story building run along the street? A It runs about 74 feet. It is shown better here, 311 to 317.

Q The 74 feet, is that a two-story building? A Yes.

Q Then what comes? A Then comes what I observed as the Reid garages.



*John J. Bracken, direct.*

Q How tall are they? A Those are three-story brick.

Q And that three-story brick building goes right flush up to the two-story brick bulding? A Yes.

Q Now, will you look at S. 11, photograph. Can you see those buildings or any of them on that photograph? A Yes.

Q Well, now, do you see the two-story brick building to which you referred? A Yes.

Q Where is it on the photograph? A Here it is here.

Q The building at the extreme left of the photograph? A Yes.

Q And the three-story brick building that you mentioned, is that also on the photograph? A That is on the photograph there.

Q Where the big sign "Reid Ice Cream" is? A Yes.

Q Can you tell how far that is north of the— A I would say the driveway would be right about in there.

Mr. Bigelow: Will you show it with the pointer on the other map?

Witness: I say it would be about there. I did not measure the driveway of the building. This is the machine shop next to the Reid plant.

Q What is the scale of the map? A Ten feet to the inch.

Q Will you tell us about how many feet north that driveway would be north of the northerly end of the office building? A I would say approximately—

Q To a point where this truck is standing in the picture S. 11, from the northerly end of the

Reid building? A It would be about fifty or sixty feet.

Q That would be the center of the building 311 to 317? A Yes.

*Re-direct examination* by Mr. Bigelow.

Q Do your notes show what this building is directly opposite the Reid plant which is marked 319? A There are two numbers the same.

Q Well, the most southerly, 319? A Well, that is a little office building. I think some contracting company.

Q You indicated on S. 2, that is, this lower map, where the machinery company is? A Yes.

Q Will you indicate on this one, the upper map, where it is? A Right here.

Q That building along there? A Yes, sir.

Recess from 1 to 2 P. M.

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After Recess.

Continued pursuant to adjournment.

Present, counsel as before stated.

JULIA I. YOKUM, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Mrs. Yokum, where do you live? A 234 North Eighteenth street, East Orange.

Q Were you in the vicinity of the Reid Ice Cream Company plant which is on Mt. Pleasant



avenue here in Newark on the morning of July 19th? A I was.

Q Did anything occur to attract your attention? A I was working for Southard & Allen, Incorporated, at 319 Mt. Pleasant avenue.

Q Where is that company? A It is almost directly opposite the Reid Ice Cream Company.

Q Is that building in which it is located built out to the street, do you recall? A Out to the sidewalk.

Q I show you a photograph Exhibit S6 and ask you if you can see the building on that photograph? A Yes, sir, it is a little one-story building right here.

Q Is that next to the frame building with the mansard roof next to this building here? A I don't know, that is the building, 319, right there, there is a little one-story brick building.

Q What did you do there, what were your duties? A Well, I started on temporary work that morning and I was secretary and stenographer.

Q And whereabouts in the building were you? A On the first floor in the front room, the room facing the street.

Q What time did you get to work? A About five minutes to 9, I suppose.

Q Well, now, about 10 o'clock did anything occur in the street? A Well, I don't know whether it was exactly 10.

Q I say about 10? A About 10.

Q What occurred, tell us what you saw? A Well, I heard shots and I noticed a little girl across the street in the Reid Company on the second floor of the first window and she was acting very strangely and I saw this man with the revolver in his hand shooting.

Q Where was the man with the revolver in his hand? A He was in the street.

Q Were any automobiles around him? A I saw a machine parked in front of the Reid Ice Cream Company and he was on the—nearer the middle of the street from the machine.

Q Are you familiar enough with the different makes of machines to say whether that was or was not a Chevrolet? A I cannot say.

Q Was it a two passenger car or a bigger car? A I think, as I recall, it was a two passenger car.

Q And this man who had a gun in his hand was between or further in the street than that car? A Yes, sir.

Q Did you see another car there? A No, sir.

Q Will you describe that man? A Well, I got a back view of the man and I imagine he is about five feet ten—

Mr. Kavanagh: I object to what she imagines.

The Court: Tell us what you saw, just tell us your best impression.

Witness: He was a man about five feet ten, dark hair and a well built fellow, and I got a back view of the man.

The Court: Do you know how he was dressed?

Witness: He had dark clothes on.

The Court: What kind of a hat?

Witness: I don't recall.

Q Did you remain in your place of business or did you come out on the street? A I remained in the building.



Q Could you identify that man if you saw him again? A I could show you the size of the man from the back, from a description of the back, I cannot definitely identify the man because I did not get a front view of him.

Q You mean that if you saw the man standing up with his back to you you could tell whether he was the same size or not? A Yes, sir.

Q Did you see anybody fall, or anything of that sort, to the pavement? A Well, I saw this old, gray haired man fall in the street.

Q Was he near or far from the man with the pistol? A Well, he was not so—the man with the pistol was not right up on him, he was just a little distance he was out a little further to the street.

Q Were the two men as far away from each other as you are from me now?

Mr. McGeehan: I object to that as leading. I think the witness should say.

The Court: I will allow it.

Mr. Bigelow: Question withdrawn.

Q Will you point out some object in this room that you think is about as far from you as the man was to the other at that time? A Well, I should say it was about three-quarters the length of that table you are sitting at.

Q Three-quarters the length of this table here? A Yes, I would judge it was that.

Mr. Bigelow: Six feet?

Mr. McGeehan: Yes.

Q Have you seen the backs of the defendants in this case? A I have.

Q Where? A In the City Hall.

Q Was it the City Hall itself or the little building in back of the City Hall? A The building in back.

Q Was there any of the defendants whose back looked like the back of the man you saw with a pistol at that time?

Mr. McGeehan: I object to that. She said she did not see the party well enough to identify him.

The Court: That does not destroy the competency. It may go to the credit.

Q (Question read.) A There was a man there who answered the description.

The Court: What do you mean?

Witness: Well, he was just about the size. From the back view he looked like this man.

Q Who was that man—strike it out. Do you see that man in court now? A Yes.

Q Point him out? A That man with the light gray suit there answers the description.

Q Will you count from the aisle here which man that is? A It is number six.

Mr. Bigelow: Mr. McGeehan, is that the defendant Capozzi?

Mr. McGeehan: The sixth man is the defendant Capozzi.

Mr. Bigelow: Will you stand up, Capozzi?

Q Is that the man you meant? A Yes, from the back I saw him, so I couldn't say definitely.



*Cross examination* by Mr. McGeehan.

Q You were taking Miss Walsh's place in Mr. Allen's office the day this happened? A Yes.

Q And Mr. Allen was your employer? A Yes.

Q Now, did you tell Mr. Allen after this happened that you didn't see anything that happened or didn't know anything about it? A No. I did not tell him I did not know anything about it, because I was sitting right in the front room and he knew I knew something about it, because he came running in from the back room. He heard the shots.

Q You were sitting with your back toward the front? A Yes, but I turned around immediately.

Q You do not remember seeing any automobile except the Chevrolet? A No.

Q And when I say the Chevrolet, I do not use your word. You said there was a two-passenger small car? A Yes.

Q And which way was that two-passenger small car facing? A I do not recall exactly, but I think it was facing up the street, up Mt. Pleasant avenue—it was parked on the right side of the street from the Reid Ice Cream Company's side.

Q Wasn't it on the same side of the street as the Reid Ice Cream Company office? A Yes.

Q Was it pointing toward Clay street or away from Clay street? A Away from Clay, as I recall it.

Q And you do not remember any small car facing toward Clay street? A No.

Q You do not remember any other small car standing in front of the place? A No, I do not recall seeing any other machines at all.

Q Was that Chevrolet still there after it was all over? A Well, this man, when he fell down in the street, he was lying beside this machine. Yes, the machine was there.

Q He was lying beside it? A Yes.

Q And you could get a full view of him? A Of the man that was dead, yes.

Q And that car remained there? A As I recall it.

Q So you did not see any automobiles drive away from there at all? A No, sir.

Q Did not see any large automobiles standing there near the Chevrolet at any time? A No.

Q You did not see any large automobile driving off on Mt. Pleasant avenue? A No, sir.

Q You did not see where the man went to that you saw with the gun in his hand? A No, sir.

Q Did you continue to watch him? A I continued to watch the scene but there were quite a few people gathering around in a very short time, just a few seconds.

Q Were they gathering around there at the time you saw the man with the gun in his hand? A There were quite a few people around at the time because I saw other people looking on.

Q So that when you saw the man with the gun in his hand there were other people gathering around there, is that right? A Yes, sir.

Q And which direction were they coming from? A Well, I saw one boy with a loud striped sweater that ran over and hid behind a little post, the loading platform, I noticed that



boy particularly, and then I saw this girl at the window of the Reid ice cream plant on the second floor, the first window, acting very peculiarly.

Q You say acting very peculiarly, did you see her come to that window? A I don't know whether I saw her come, but I saw her throw her hands up and acting very peculiarly.

Q What was she doing in a peculiar way? A Well, I cannot say, but it attracted my attention the way she acted, she threw her hands up, not over her head, but part way.

Q As a person would in horror at seeing a man lying bleeding? A Yes, I should say.

Q And at that time a man was lying in the street, wasn't he? A Well, not just at the instant when I saw this girl, it was just like a second later.

Q You saw the girl first? A Well, I saw her first, yes, sir.

Q Then when you looked you saw a man lying in the street, is that right? A Well, there might have been a lapse of a second or two.

Q Oh, I know that, I did not say whether it was one second or two, but you looked at this girl? A Yes, I saw this man lying in the street after.

Q And about three-quarters of the distance of that table away from there was another man? A Yes, sir.

Q And that man had his back toward you? A Yes, sir.

Q But you did see a revolver in his hand? A Yes, sir, in his right hand.

Q How many shots did you hear before that? A Hear before that?

Q Did you hear any shots at all that day? A Yes, I did, I heard about three or four, and I cannot count them, and I cannot say definitely.

Q Was that before you looked? A No, sir.

Q Was that after you looked? A Well, he must have shot once that attracted my attention and I saw this girl at the same time and then there were other shots that followed immediately after.

Q Did you hear any shots before you looked up? A Well, I imagine the first shot was fired before I looked; something must have attracted my attention to make me look out.

Q And, therefore, that is the reason you are saying you heard a shot, because you say something must have attracted your attention to make you look? A Yes, and I saw this girl up at the window.

Q Was any one shooting out of the window then? A I did not see any one.

Q Did you see any one looking out of the window later? A No.

Q Do you know where the man whom you saw in the street was, when Mr. McKenna, who worked across the street was shooting out of the window? A I don't know Mr. McKenna, I did not see anybody shoot out of the window.

Q Did you see any one shooting anywhere? A I saw this man in the street shooting.

Q Did you continue to watch him? A I continued to watch him.

Q Where did he go? A I cannot tell you where he went.

Q Did he run down towards Clay street? A I was looking at a kind of a forty-five degree angle and he got out of my view, I did not see where he went, I was inside the room.



Q Well, you got a good enough idea of what he looks like to remember the size of the man or the shape of his back, didn't you? A Yes, sir.

Q And the only thing about it was—he was how tall did you say? A About five feet ten.

Q That is your recollection of it? A Yes, I should judge he was five feet ten.

Q And he had dark hair? A Yes.

Q Could you tell that? A Yes.

Q What color suit did he have on? A Dark suit.

Q Now, the revolver that you saw in his hand, was it an old looking one or a new looking one? A Well, it was bright.

Q And you do not know where that man went after the shooting? A No.

Q And after that you heard no shots from the window upstairs? A Not that I recall.

Q Well, you said before you did not see anyone or hear anyone shooting from the window? A You said before did I see anyone and I said I didn't see anyone.

Q Well, did you hear any more shots? A Not that I recall.

Q And did you go outside of your office? A No.

Q Looking out of the window? A Yes.

Q And if your attention was centered on the scene you could see the girl up in the window? A Yes.

Q One girl or two girls? A One.

*Re-direct examination* by Mr. Bigelow.

Q Did you say in your direct testimony that you saw this man fall to the pavement? A Yes, I saw this man—I saw him fall.

*Julia I. Yokum, re-cross.*

Q Now, you testified, I think, that you were looking out at an angle of 45 degrees. Does that mean that you were looking diagonally across Mt. Pleasant avenue? A Just about, yes.

Q Well, were you looking diagonally toward Clay street, or diagonally away from it? A No, away.

Mr. Bigelow: Is Mr. Schanck and Mr. McKenna in court? Mr. Schanck, will you turn around with your back this way.

Q Is that the man you saw out there with a gun in his hand? A No.

*Re-cross examination* by Mr. McGeehan.

Q How tall do you think that man is that you just looked at? A Well, I should say he is about five feet ten and a half or probably eleven.

Q So you think there may be a half inch difference between he and the man you saw? A Yes.

Q Is he slim or stout?

Mr. Bigelow: Which one?

Mr. McGeehan: I mean the man you just looked at.

A Well, he is inclined to be a little thin, slim.

Q And is the man you recognized, Mr. Capozzi, slim or stout? A Well, he is not slim or he is not stout. I would say he is a pretty well built man.

Q Don't you say Mr. Schanck is a pretty well built man? A Well, he is not quite as heavy.

Q And the man you saw had a dark suit on; is that right? A Yes.



*Julia I. Yokum, re-cross.*

Q And he had a hat on at the time? A I do not recall. He had his head covered, but I do not recall whether he had a hat or cap. I could not say.

Q You know his head was covered? A As I recall, it was covered.

Q Now, you do not remember, miss, very well what you saw that day, or who you saw that day? A Well, I know what I saw.

Q And you think you have a good memory of it, do you? Do you feel that your recollection is pretty positive of all that you saw? A What I have stated is what I recall.

Q Now, do you know the driveway, miss, that is right alongside of the Reid Ice Cream Company's office? A Yes.

Q Have you worked there often? A No, that was my first day's employment.

Q Have you worked there since? A I worked there for two weeks after, but not since.

Q Well, did you work there long enough to get a pretty good idea of what it looked like across the street? A Yes; I noticed the loading platform and the alleyway of the Reid Company.

Q Now, the building that you worked in was number 319, wasn't it? A Yes, a little one-story brick building.

Q And that was straight across the street from the Reid Company? A The Reid Company was up just a little on Mt. Pleasant avenue, a little further up.

Q Toward Clay or the other way? A The other way.

Mr. McGeehan: There are two on the map marked "319."

Mr. Bigelow: Mr. Bracken said there were two by that number.

Mr. McGeehan: Can we agree that of the two marked 319 the one nearest Clay street is where this young lady works?

Mr. Bigelow: Yes, the brick building.

Q You worked in a brick building that was number 319 and which was straight across the street from the Reid place; is that so? A We were just about opposite the alley or probably that loading platform, the Reid Company, the front of their office was further up on Clay street or Mt. Pleasant avenue, I mean.

Q Aren't they exactly straight across from each other, exactly across from each other so that the little brick factory you worked in pointed right across the street to the center of the Reid office building? A No, sir.

Q Sure of that? A Yes, sir.

Q Do you understand this map?

Mr. McGeehan: This is supposed to be the Reid Company's office, the porch and the steps and I suppose the loading platform, is that right, Mr. Prosecutor?

Mr. Bigelow: I believe it is.

Q Now, isn't this little place marked 319 where you worked, right across from the Reid Company office? A We were just about directly opposite the loading platform.

Q Then, you were almost directly opposite, at that window where, the stairs of the Reid place and the porch of the Reid place? A We almost opposite the end of the Reid Company that was nearest Clay street, I should say, we were straight across from that driveway and the loading platform.



Q So you looked at least not exactly right straight out, but almost straight out to see all that you saw, didn't you? A No, I looked on a kind of an angle, the room that I was in—it was in the side of the building which is nearest to Clay street, we have a little ante-room in there and that takes up the first section of the front office.

Q Well, that whole building is only about fifteen or twenty feet wide, isn't it? It is a very narrow little one-story building, isn't it? A Yes, it is just a little one-story.

Q It only had two windows in it, hasn't it? A It has two windows in it, then it has the door.

Q This is the little place, isn't it, where the man is standing in front of it with the white shirt (referring to Exhibit S. 4)? A Yes, sir.

Q You were looking out of one of those front windows, weren't you? A Yes, sir.

Q Is that right? A Yes, sir, but you see this is down a little from the Reid place nearer Clay street.

Q Now, you think it is opposite the driveway, then, is that right? A Yes, sir.

Q Opposite the loading platform, you think, don't you? A Yes, sir.

Q So you think it would be about in the position or at the northerly part of 321, where 321 is shown on the map about at this point that I am indicating? A Yes, sir.

Q Well, even then to look at a point in front of the porch and steps you wouldn't have much of an angle to look at, would you? A It wasn't any great angle, I looked at an angle, though, I did not look right straight out, not more than to me, it was but a little.

Q And in your looking out you took in the whole Reid building, didn't you and the upper

windows? A I could not see the extreme end of the Reid Company, not the extreme end of it.

Q You could not see the windows upstairs? A Yes, sir.

Q And you could see the whole of the Reid building, couldn't you, from that window? A I don't think so.

Q You mean you could not see the extreme northerly end, could you, is that right? A Yes, sir.

Q But you could see everything in front of the porch and steps there? A Yes, sir.

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THOMAS J. CLARK, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Tommy, where do you live? A 329 Hickory street, Arlington.

Q You are the boy I have been keeping up in the House of Detention, aren't you? A Yes, sir.

Q How old are you? A Fifteen.

Q Do you go to school? A Yes, sir.

Q What school? A Kearny High.

Q And what class are you in? A 10-B.

Q What do you study there? A The Latin course.

Q Are you going to be a lawyer when you grow up?

Mr. McGeehan: Why predict failure in life so young?

Q Were you on Mt. Pleasant avenue the morning of July 16th? A Yes, July 19th.





The Court: The witness corrected you and said the 19th.

Q At about what hour did you get over there? A Somewhere around ten o'clock.

Q Were you walking along the street? A I was just coming from work.

Q Where were you working? A 359 and 371 Mt. Pleasant avenue.

Q Coming from work which way were you walking? A Towards Clay street.

Q On which side of the street were you? A I was on the right side walking towards Clay.

Q That is the side toward Broad street and away from the river? A Right.

Q Did anything happen that was out of the ordinary as you walked along? A When I was walking along a big car stopped right beside a Chevrolet coupe.

Q Now, you tell these gentlemen here just what you saw. A I saw a few men step from the side toward the river—step from the car, and then they fired—three shots was fired, and one of the fellows threw two bags into the large Pierce Arrow and then they went up Mt. Pleasant avenue.

Q Now, were you nearer Clay street or further away from Clay street than this large automobile when the firing took place? A Well, I didn't know it until I was right on top of the car, and then I walked back a couple of steps and then I walked further away from Clay street.

Q You were right about opposite it? A I was right about opposite.

Q You were on the sidewalk? A I was on the sidewalk and then I walked up a little.

Q Did you see anybody fall to the pavement or anything of that sort? A I saw an aged man fall.

Q Was he on the other side of this big car from you? A The other side, yes.

Q And were the men or man firing the pistol on the other side of the car from you or on the side toward you?

Mr. McGeehan: I think the boy is intelligent enough to testify himself without the Prosecutor leading.

The Court: I will allow that.

A I was on this other side.

The Court: You mean?

Witness: I was toward Broad street.

The Court: You were on the east side of the street?

Witness: I was on the side nearest Broad street.

Q And which side of the big automobile did the shooting take place? A The side nearest to the river.

Q I think you have said that you saw one of these men shooting? A Yes.

Q Did you see him shoot more than once? A Well, he seemed to fire a few shots.

Q Did you see him aim his pistol or point his pistol at anybody? A Well, I could not see exactly from where I was standing, because he was on the other side of the car.

Q Did you get a good enough look at any of these men to be able to identify them? A Well, for a while the chauffeur was looking toward



me. I do not think he was looking at me, but toward me.

Q Could you tell that man if you saw him again? A I think I could.

Q Well, look around the court room and see if you can find him.

The Court: All the way across and look any place you want to.

Witness: Well, he seemed to be the same build as that man right over there.

The Court: Which man? Go down and point him out.

Witness: That man right there.

Mr. Bigelow: Indicating Boudreau.

Mr. McGeehan. Yes.

Q Would you be able to identify any of the other men if you saw them again? A No, sir.

Q Did you notice the number of this big car? A Yes.

Q What was it? A D-1926.

*Cross examination* by Mr. McGeehan.

Q Thomas, you have been in the House of Detention for a few days? A Yes.

Q And those few days are the last two or three days? A Yes.

Q And you have been in court here each day since this case began, haven't you? A No.

Q Well, you have been here a few times? A Just today, that is all.

Q Oh, weren't you here before today? A Not in here.

Q You are sure about that? A Yes.

Q Did you go to lunch down to a little bakery down on Market street the day the jury was being drawn? A Yes, but I wasn't here.

Q Weren't in the court room? A No.

Q Weren't you in the court room yesterday afternoon? A No.

Q Are you sure about that, Thomas? A Yes.

Q Now, Thomas, you have been questioned about this case, have you, for the last week or two by policemen? A No.

Q And you looked across this line from one end to the other, just now? A Yes.

Q The man that you picked out as remembering and the only man you remember was the man named Boudreau you pointed out over there, that is right? A Yes.

Q Now, when you were at police headquarters a month or more ago, did you pick out other men beside?

Mr. Bigelow: I object.

Mr. McGeehan: I will withdraw it.

Q Were you ever at police headquarters? A I was there a few times, but not lately. I was not there all the time.

Q But about a month ago? A I have been there several times, but I wasn't there steady. I could not go every time I was sent for.

Q You have only been there steady the last few days? A No. Every time he wanted me there I could not go up.

The Court: Mr. McGeehan, perhaps that explains why he was in the House of Detention.



Q Were you at any time at police headquarters? A Yes, sir.

Q Were you at any time at headquarters in front of a line-up of men? A Yes, I was a couple of times, but not all the time, I was there a few times.

Q No, son, I did not ask you that, I don't know how many times you were sent for, but I am asking you whether you were there on one or more occasions at police headquarters with a line-up of men in front of you? A Yes, sir.

Q And that was about a month ago, wasn't it? A I am not sure about that.

Q About how long ago do you think it was? A I have been there last month and the month before.

Q What? A I have been there for the last two months, three or four months.

Q Do you know what I mean by police headquarters, the place behind the City Hall here in Newark? A Yes, sir.

Q How old are you, Thomas? A Fifteen.

Q Now, you went with your father a couple of times, didn't you? A No, sir.

Q Did you go alone when you went? A Yes, sir.

Q To police headquarters? A Not alone, I went with some officers.

Q Now when you were at police headquarters what kind of a building was it? A A small brick building behind the City Hall.

Q A brick building behind where? A The City Hall.

Q And when you went into that building how did you get up to police headquarters? A On the elevator.

Q There is an elevator there, isn't there? A Yes, sir.

Q You went up about five or six stone steps past a desk to a little elevator, didn't you? A Yes, sir.

Q And then to what floor did you go? A The third floor, I think it was, the third floor, but I ain't sure.

Q Now, you have no doubt that you were at police headquarters have you, I mean you know you were there? A Yes, sir.

Q And in addition to that you know you were put in front of a line of men there, don't you? A Yes, sir.

Q And you were asked to pick certain men out, weren't you? A Yes, sir.

Q Did you pick several men out on that occasion? A Well, I did not look them out, I looked over them, the gallery, and I went to see a couple of men but they were not them.

Q Now, did you use the word "gallery" you did just now, didn't you? A Yes, sir.

Q What do you mean by a gallery? A Well, it is like, you see, like you know, pictures of certain men.

Q Now, did you see pictures of certain men? A Yes, sir.

Q Now, so there can't be any mistake I want to ask you this, forgetting for the moment about any galleries or pictures, did you say when you were at headquarters you saw a line of men something like that along there, a lot of men in a line? A Yes, sir.

Q And did you then pick out some men in that line? A No, sir.

Q And you were in charge of Mr. Kenny, who stands over there, weren't you at that time? A Yes, sir.



Q Did you tell them anything different then than you have in the last few days? A No, I don't remember that I did.

Q Did they tell you before that time, before that line-up, that they had five men there they wanted you to try and pick out? A Well, I don't remember.

Q Just what did they say to you when you went in? A "There is some men there, go and pick them out."

Q They said, "There is some men there, go and pick them out?" Did they tell you what they looked like? A No, I went and saw them myself.

Q How many men did they say there were there? A I don't remember.

Q Did they tell you some number of men? A I don't know whether they did or not, I am not sure of that.

Q What is that? A I am not sure if they did or not.

Q Now, the time when they brought you in before the men what was said to you there, what did they say to you when they brought you in? A They said, "Look them over carefully and pick them out."

Q Did they say, "They are there, don't be afraid?" A They said, "They are there, but don't be afraid," I think that they did.

Q Now, when they said that where were you standing, where did you get to before they said that? A I was in a different room when they said that.

Q In a different room when they said that. Now, when you came into that room in front of the men who was in charge of you, who was taking care of you, Thomas? A I think it was Kenny was with me and a few others.

Q Kenny and a few others? A Yes, sir.

Q Now, was anything said, now try to listen to this question carefully, was anything said when you got in front of that line-up of men inside of the room with a lot of men in a line? A I don't think so.

Q Did they tell you what to do? A They said, "Go up and pick them out" that is all they said.

Q They said, "Go up and pick them out," did you look at any pictures before you went in there? A I think I did.

Q Do you know what pictures you looked at before you went in there? A No, sir.

Q Do you know whether they were pictures in a newspaper? A No, sir.

Q When did you look at the pictures, before you went in there, the same day? A The same day.

Q How many minutes before you went in before that line-up? A Ten minutes I should judge.

Q How many pictures were shown to you before you went into that line-up? A few.

Q How many? A A few were shown.

Q Were these few about five pictures? A I don't know at different times was different numbers.

Q But the few that they showed you ten or fifteen minutes before you went in there before that line-up were there five of those pictures that they showed you? A I don't think so.

Q Was it one big picture? A It was one big picture, but I don't recognize it.

Q Do you think that is one picture they showed you, not on newspaper, but of those men? Look at that carefully, Thomas, please?



Mr. Bigelow: Do you mean whether this is a duplication of a picture shown the witness?

Mr. McGeehan: Yes.

Witness: I think it was.

Q Now, Thomas, after looking at that picture which was shown to you, you went into the line and did pick out some men that did look like those pictures? A I didn't pick out any man.

*Re-direct examination* by Mr. Bigelow.

Q Thomas, when did your school start this fall? A September.

Q Do you remember the date in September? A The 16th, I think.

Q The 16th? A St. Benedict's started later.

Q Did you come over here to Newark to a line-up after your school started? A No.

Q Any line-up that you came to here in Newark was during the summer vacation? A Oh, that is right, I saw a few during school time, school period.

Q You saw what? A A few line-ups.

Q And what do you mean by a line-up? A Well, a line of men.

Q A picture of a line of men, or the men themselves? A The men themselves.

Mr. McGeehan: I object to that. The witness has just said a line-up of men, and it is leading to say or something else.

The Court: He has answered it.

Q How many line-ups did you attend here in Newark altogether? A I do not remember.

Q Were there more than one? A More than one.

Q How many more? A I do not remember.

Q Twenty-five or thirty? A No, not as many.

Q Now, as nearly as you can remember the different line-ups, if there was more than one that you attended, and tell the jury how many there were altogether? A About three or four, I guess.

Q Any outside of Newark? A I didn't see any line-ups outside of Newark.

Q And all the line-ups that you saw in Newark were in the same building? A Yes.

Q And where was that building? A Behind the City Hall.

Q Here in Newark? A Newark.

Q About when was the first time you saw a line-up in the building behind the City Hall? A I do not remember.

Q About how long after the hold-up was it? A I do not remember how long it was.

Q Well, was it soon after? A Oh, it was not soon after; a little while.

Q Would you say it was less than a month after?

Mr. McGeehan: I object to that as leading.

A About a month after.

Q That was before school started in the fall? A Yes.

Q And when was the next line-up that you saw? A I cannot remember all the line-ups.

Q Well, was it soon or wasn't it soon after that first line-up? A I haven't got any idea how long it was after the first one.



Q Was it before school started? A It may have been before school started.

Q Now, do you remember distinctly the first line-up? A No, sir.

Q It was a new experience for you, wasn't it? A Yes.

Q Don't you remember distinctly going down to the building behind the City Hall? A I remember going down there, but I cannot remember the line-up that I saw, though.

Q Do you remember distinctly the second time you went down there? A No.

Q Did you go a third time? A I think I did.

Q Are you sure? A I am not sure. I know I saw about three, or around that.

Q Did you go a fourth time? A I may have; I don't think so, though.

Q Did you go a fifth time? A No.

Q Do you know when the last time was that you went down there? A I have an idea when it was.

Q About when was it? A When school opened; school had already opened.

Q Well, was it soon after school had opened? A Yes, it was pretty soon.

Q Do you remember when Columbus day came around; did you have school that day? A No.

Q Well, was this last line-up that you attended before Columbus day or afterward? A I don't remember.

Q Do you remember what day of the week it was? A No.

Q Do you remember whether it was morning or afternoon? A No.

Q Do you remember whether you got off from school to go to the line-up or whether you did not get off from school? A I got off from school.

Q You do not have school Saturday or Sunday? A No.

Q So then it must have been one of the other days of the week? A Well, I went there a few days in the morning, I did not go to the school in the morning. I went later in the afternoon.

Q You mean after the line-up you went to school? A I went to school right after the line-up.

Q What time is school over? A Nine o'clock.

Q It starts at nine? A Yes, sir.

Q What time is it over in the afternoon? A About half-past two.

Q So you got through with the line-up in order to get to school before half-past two? A Oh, yes, sir.

Q Did you ever go to a line-up on Sunday? A I was supposed to but I did not.

Q Do you remember when that line-up was when you were supposed to go but did not? A It wasn't long ago.

Q Well, about how many Sundays ago? A About four, I should judge.

Q Have you been to any line-up since the time when you were supposed to but did not? A No, sir.

Q That was a Sunday, you say? A Yes, sir.

Q About four Sundays ago? A Yes, sir.

Q Had you been in a line-up, how late before that had you been to a line-up? A I don't remember.

Q Well, had you been to a line-up the day before? A No, sir.

Q Or the day before that? A No, sir.



Q Had you been to a line-up before that day? A I don't remember.

Q You are sure you were not up to a line-up the day before this Sunday nor the day before that, is that correct? A Yes, sir.

*Re-cross examination* by Mr. McGeehan.

Q Young man, do you remember the Sunday that you were supposed to go down to a line-up? A About four Sundays ago.

Q Did you go within a few days after that down to the City Hall, down to police headquarters? A No, sir.

Q Did you go at a time when some woman was there at the same time before a line-up? A What do you mean by that?

Q Were you there to look over a line-up at the same time some woman was looking over a line-up on a weekday? A I don't think so, no, sir.

Q You know you have been to a line-up since school opened, don't you? A Yes, sir.

Q And school opened when? A September 16th.

Q Now, how long after school opened did you go before a line-up of men at police headquarters? A It wasn't very long after.

Q Well, about how long was it, the first week you went to school or a few weeks after that? A About a week after.

Q So you think it was some time before the 1st day of October, do you? A Yes, sir.

Q You think it might have been since the 1st of October? A No, sir about then.

Q You read the papers, don't you? A Once in awhile.

Q Did you read about some men being arrested about a month ago charged with the Reid hold-up? A No, sir.

Q You did not read anything about it? A I only read about the sports, the sporting edition.

Q You read the sporting pages? A Yes, sir.

Q Well, was it since the World Series Games that you were down to headquarters? A Before then.

Q And are you sure you have been down since? A No, I am not sure about it.

Q You have been down so many times you are a little uncertain, aren't you? A Yes, sir.

Q Now, Boudreau, whom you picked out today here, did you pick him out of a line once before? A No, sir.

Q Did you never pick Boudreau out of any line-up of men? A No, sir.

Q When did you see Boudreau before? A I saw him today, that's all.

Q You saw him today? A Yes, sir.

Q For the first time, Thomas? A Upstairs, yes, sir.

Q Oh, yesterday? A No, I said today upstairs.

Q How did you see him today upstairs? A Well, he is up there, that's all.

Q And was he pointed out to you as Boudreau? A No, sir, he was not.

Q How did you know you saw him upstairs, where did you see him? A Because they asked me if I could pick out anybody up there and I looked them over.

Q You mean to say today, for the first time, it is the first time that Mr. Kenny has questioned you about Boudreau?



Mr. Fisch: He did not say that.

Q I asked you if you knew Boudreau, having him before you? A The first time I saw him was today upstairs.

Q Now, Thomas, have you picked Mr. Boudreau out of a line-up at police headquarters?

Mr. Fisch: That question has been answered by the witness, your Honor, I object.

The Court: Let him answer it again.

Q Thomas, have you ever put your hand on him before and say, "This is the man I saw in the driver's seat?" A No, sir.

Q Never before? A No, sir.

Q And haven't you put your hands on some of the men sitting in this line at a line-up at headquarters? A No, sir.

Q You are sure of that? A Yes.

Q Have you been to police headquarters in the last week? A No.

Q How long was the last time you were there? A I do not remember.

Q About how long ago? A It was a month ago, anyhow. I know that.

Q Well, when you went there a month ago, anyhow, were you shown any men then? A I think I was.

Q And at that time, you were shown this picture, is that the last time you were there?

Mr. Bigelow: I do not think he has testified he was shown that picture.

A I think I was. I ain't sure about that, though.

Q You ain't sure about what? A About seeing that.

Q You know you saw some picture with several men on it? A Yes.

Q You are not sure whether this is the one or not? A No.

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JOSEPH J. KENNY, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q You are an officer of the Newark Police Department? A I am.

Q A detective attached to headquarters? A Yes.

Q How long have you been on the police force of Newark ? A Since 1912.

Q And have you been working on the Reid hold-up? A I have.

Q Ever since it happened? A Yes.

Q Did you go over to see Tommy Clark, the witness who has just been on the stand, at his home at any time in connection with that investigation? A I have.

Q And did you bring him out to Newark to any line-ups? A I brought him to one line-up.

Q When was that? A Why, that would be about the first part of September, somewhere around that time.

Q Has he been to any line-ups since then? A Not to my knowledge.

Q Do you know when these four defendants on trial here were arrested? A I do.

Q When? A On the morning of the 15th of October.





Q Do you know when Boudreau was arrested? A On the 14th of October.

Q Has Clark been out to any line-up since the 14th? A No, he has not.

Q Was he here on the 14th? He was not here on the 14th? A No.

Q Have you been present at line-ups at which these defendants were in line? A Yes, I have.

Q Has this young boy, Tom Clark, been present at any of those line-ups? A None that I have been at.

Q Have you been over to his home or made any attempt to get him at police headquarters for any line-ups in which the defendants would be in? A I have a couple of times.

Q But you did not bring him back with you? A His father refused to let him go. I visited his father on the 17th—

Mr. McGeehan: I object.

*Cross examination* by Mr. McGeehan.

Q How many times has the boy been to headquarters with you? A Well, I could not just be definite; numerous times.

Q Well, about how many times? A Well, I would say half a dozen times.

Q Each time on these occasions the father let him come? A No, the father never came.

Q No, I didn't ask you that. Each time on those occasions the father would let him come? A Yes.

Q But he didn't let him come the time you had arrested these men charged with the Reid crime, is that right? A He would not let him come.

Q Now, who was the boy that was at the line-up of these men? A The boy?

Q Who was the boy that was at the line-ups of these men?

Mr. Bigelow: There is no evidence that there was any boy.

Q Was there a boy at any of these line-ups? A About what age?

Q About this boy's age.

The Court: Do you know of any?

Witness: I am just trying to refresh my mind.

The Court: Any line-ups that these men were in?

Witness: Not that I recall.

Q These two men were in two line-ups. How many line-ups were these men in altogether, approximately? A They were in a line-up on the 17th.

Q How many altogether? A There were three line-ups.

Q Now, were you at all of those line-ups? A Yes, I was at the three of them.

Q Then, you were at all of them? A Yes.

Q And was there any boy at any one of those about the size, age and appearance of this little boy? A Yes, there was one.

Q Why did you say a few seconds ago, "Not that you recall?" A That was in reference to a third line-up.

Q I asked you why you said a few minutes ago there was no boy about this boy's age at any of these line-ups that you recall, why did you say



that? A I did not understand that you wanted all the line-ups.

Q Do you mean to tell us that you did not understand the question that you deliberated so long over and took a drink of water to think about it? A I did not understand that you wanted all the line-ups.

Q Why did you think that I wanted to exclude the one the boy was at? A I was thinking of a line-up that was in reference to the Ward-Reid case.

Q Now, officer, I again ask you this question. There was a boy at this or some one of these line-ups about the age and appearance and size of this little boy, wasn't there? A Approximately about the size and same age.

Q Now, who was that boy? A I just cannot recall his name, he came from East Orange.

Q You cannot tell us his name? A I cannot not at this time, no, sir.

Q Did you take that boy to the line-up, whoever he was? A No, I did not.

Q Now, do you think maybe you are mistaken in your memory as to whether this boy was in one of the line-ups since these men were arrested? A Which boy do you mean, Counsellor?

Q This little boy who was on the stand here, the Clark boy? A I am most positive he has not been to police headquarters to a line-up of these defendants.

Q You mean when you say you are positive that you did not bring him? A Well, he has not been present at any line-ups that I have been at.

Q And were you always inside with the men during these line-ups? A In or out, going in or out.

Q In or around the building? A No, not in or around the building.

Q You have had the boy there since the first of September, haven't you, at headquarters? A This Clark boy?

Q Yes, this Clark boy. A That would be about the last time I had him at police headquarters, some time around that time.

Q You had him up there in September before you? A Yes, I would say yes.

Q And have you had him up there since Boudreau was arrested? A No, not that I know of.

Q You are not sure of that, are you? A Not that I know of, I won't be certain about that, I did not see him since the arrest of Boudreau.

Q Now, you have had him in your custody and have been up to the Court House with him every day since this trial opened, haven't you? A He has not been in my custody.

Q He has not been in your custody at all? A No, sir.

Q But you have seen him here at the Court House? A I seen him here on Monday sitting over at the prosecutor's office.

Q Who else has had charge of the boy besides you? A Mr. Manning was there, he is my partner.

Q Mr. Manning is your partner, is he not? A Yes, sir.

Q And has Mr. Manning had him here each day? A I don't know about any other days I haven't saw Tommy until today. That is the first I saw Tommy in a couple of days.

Q You did not see him yesterday, did you? A No, I don't recall seeing Tommy yesterday.

Q Now, you have seen Boudreau in this building before the trial, haven't you? A Yes, sir.



Q And he has been down at headquarters ever since he has been arrested, isn't that right. A Well, I would not be so certain of that, because I haven't saw Boudreau every day, I have saw him at different intervals, but I would not be certain he was at police headquarters all the time.

Q Well, pretty much all of the time? A Well, I wouldn't be sure.

Q Well, except for trips to the Reid plant and to a spaghetti house on South Orange avenue he has been there all the time, hasn't he?

Mr. Bigelow: I object.

The Court: The witness has answered.

Q You have been working on this Reid case, haven't you? A I have.

Q And you knew the name of a boy who said he had seen it happen, you knew the name, Clark, of the boy who said he had seen the shooting occur, didn't you? A Yes, sir.

Q And you knew where he lived? A Yes, sir.

Q And he had been five or six times with you to police headquarters before the arrest of these defendants, hadn't he? A Yes, sir.

Q And then these defendants were arrested and charged with the Reid crime, were they not? A They were.

Q They have been indicted only three weeks before this trial began, haven't they, you know that?

Mr. Bigelow: That is a matter of record.

The Court: If he knows.

Q You know they were indicted and charged three weeks ago, charged with this Reid crime, don't you? A Right.

Q And do you mean to say that during all of that period, knowing where that boy was, knowing that he said he could identify some or one of them, that you never even while he was in the same building with them, and with Boudreau, ever ask him whether he knew or recognized those men?

Mr. Bigelow: I object. There is not the slightest suggestion that the boy Clark was ever in the same building with any of these men.

Mr. McGeehan: The evidence is he was here Monday and the evidence is he was here yesterday.

Q Now, by the same building, I mean this building, since this trial began five days ago. A No, sir; I have not conversed with the boy since the boy has been in this building about this case, about the identification of any of the men that are charged.

Q You had charge of this boy or the giving of his testimony, didn't you? When you were brought on the stand, you testified, didn't you, that you were one of the officers who worked on this Reid case and had several times gotten Tommy to headquarters? A That is right.

Q And you and your partners had charge, at least in this building, or in the house of detention, for the last four or five days? A No.

Q You have not had charge of the boy at all? A No.

Q Do you know whether your partner brought him to a line-up since these defendants were



arrested? A Not to my knowledge. He has not taken him to any line-ups.

Q But he might have without your knowledge. A I do not think Mr. Manning would without my knowledge.

Q Well, then, everything Mr. Manning does you know about? A Pretty near.

Q And you do not know of Mr. Manning in the last five days taking this boy and asking him is this, or are they some of the men you saw there? A I don't know what Mr. Manning has done.

Q Well, didn't you just say you knew nearly everything he did? A Well, not that. Mr. Manning is here.

Q Well, I want to ask you before the men were indicted, after they were arrested and charged with this crime, you or Mr. Manning, with your knowledge, did not bring this boy before these men and say, or this man, and say, "Is this man the man you saw the day of the Reid shooting," did you ever do that? A Bringing him before the men?

Q Yes. A No, I never did.

Q Who had charge of the telephone booth end of the line-ups, you or someone else?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q What is Thomas' address, Mr. Kenny?

The Court: It is in the record.

A Why, it is Hickory street, Kearny, I do not remember the number.

Q And he lives with his father there? A Yes, father and mother.

Q And was it you who arrested him in school a few days ago and took him to the house of detention? A No.

Q Who did that? A Mr. Manning.

*Re-direct examination* by Mr. Bigelow.

Q Why didn't you bring this boy to see these defendants after they were arrested and since they have been indicted or before they had been indicted? A As I recall, the Sunday following the arrest of the defendants, we sent a messenger to the Clark home with a card asking that the boy be brought to headquarters for the purpose of making some identification, and the messenger returned and said the father of the boy, Mr. Clark, would not allow the boy to come to the line-up or make any identifications. I then went to the Clark home myself that afternoon and saw Mr. Clark.

Q The witness' father? A The father of Thomas, and he said that he would not allow the boy to come, he absolutely wouldn't. He said. "I am a working man and I cannot afford to have my boy go there and make identifications, I won't have it." We tried to reason with him, but he would not allow the boy to come at any time.

Q Did you make any further efforts to get him? A I did.

Q What did you do? A I went to see Mr. Clark again. I went to the Clark home and had a talk with Mr. Clark two weeks ago tomorrow and I had a subpoena from the prosecutor's office. Mr. Clark was there in the yard with a couple of men. I had a talk with Mr. Clark at that time and he absolutely refused to let him



come. He said, "Now, that is final; my boy is not going; he cannot go; I cannot be bothered with this; I have to work for a living, and I won't allow the boy to go," and I said, "All right, Mr. Clark, if you will allow him to come, we will bring the car over and get him." I reported same to Lieut. Linarducci and that was the last I did.

Q Didn't you talk with me once on the subject? A Yes, I did. That was before I made the second visit.

Q Did you talk to the boy's priest on the subject or was that Manning? A No, that was—

Mr. McGeehan: He has answered that.

The Court: He said he didn't. Never mind.

Q Did you talk with the boy's priest yourself? A I have talked with him.

Q Father Murphy? A I met Father Murphy and talked with him here in the building.

Q On this subject? A That was not in reference to having the boy come here. Father Murphy was talking about Lieut. Emslie—

The Court: Never mind, don't tell us what somebody else said. That will be stricken from the record.

Q And finally at my directions you had the boy picked up? A Right.

Q Now, you mentioned there was another boy from East Orange who was at one of these line-ups? A Yes, sir.

Q Were there many people present at those line-ups, any of them? A Yes, there always was.

Q Was this boy from East Orange there in connection with the case on trial? A Not in connection—

Mr. McGeehan: Now, I think the witness ought to be instructed—I am acquainted with the witness—yes or no. I think that would completely answer it, wouldn't it?

A No, sir.

*Re-cross examination* by Mr. McGeehan.

Q You were very anxious to get him to police headquarters, weren't you, during these months? A Well, I made some efforts.

Q You knew all you had to do was to bring him along with you on a warrant as a material witness, didn't you? A Well, I tried to avoid that.

Q You knew it? A That had to be resorted to, but I tried to avoid it.

Q And having desired to avoid it up until a few days ago you knew for the last four days you had him in your possession and in your custody? A He was not in my possession or in my custody.

Q He was with your partner? A He was in the custody of the prosecutor.

Q During this entire week did you try to accomplish what you were so desirous of accomplishing, for a month by confronting him with Boudreau or with the defendants in this case? A No, sir.

*Re-direct examination* by Mr. Fisch.

Q On cross examination Mr. McGeehan asked you whether or not there was a young man at



the police headquarters at a line-up wherein these defendants were present, this young man being about the same age as the witness, Thomas Clark? A There was.

Q And I believe you said that there was, that is correct? A Yes.

Q And did that young man identify any of these defendants?

Mr. McGeehan: I object to that as not re-direct on the subject of the cross.

The Court: I will sustain that objection.

Q Did that young man appear at the line-up at which these defendants were present? A He did.

Mr. McGeehan: I object to that, he has already testified to that on direct, and cross.

The Court: I will allow the question.

Q And was that boy present at headquarters at the time these defendants were in a line-up in connection with the Reid case?

Mr. McGeehan: I object to that as already having been testified to, the witness having previously said that the boy looked like this boy, and he wasn't there in connection with the Reid case. Therefore there is no necessity for requestioning him to that effect.

The Court: I will allow the question.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q (Question read.)

Mr. McGeehan: I think the witness ought to be instructed to answer yes or no.

A Yes.

Q And did he make an identification of these defendants in this case?

Mr. McGeehan: I object to that upon the ground that the testimony already given by the witness—

The Court: I will sustain that objection.

Mr. Fisch: Now, will you just read my question once more.

(Question read.) "And was that boy present at headquarters at the time these defendants were in the line-up in connection with the Reid case?"

Q And your answer was yes? A Yes.

Q Now, the defendants were then in a line-up in connection with the Reid case? A Right.

Q And was that boy—was he present at headquarters at that time in connection with the Reid case? A No.

Q What case was he present in connection with?

Mr. McGeehan: I object to that upon the ground that it calls by implication for an answer that might be an accusation or a suggestion or suspicion of some charge against these defendants which has not been made by any court and has not been the subject of any charge or conviction of crime. It should not enter into these proceedings even by innuendo.



The Court: I will allow him to answer the question, but I will not permit him to state whether or not an identification was made.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

(Question read.)

Mr. McGeehan: I submit that the record has completely given this man's answer that he was not there on the Reid case. Further re-direct would go beyond the right of the Prosecutor on re-direct and would call for an answer prejudicial to the defendants.

The Court: I will allow the question.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A He was brought in reference to the Ward case.

Mr. McGeehan: I move at this time for a striking out, expunging from the record of that answer.

The Court: I will allow it to stand. It has not connected these defendants.

Mr. McGeehan: Of course it does not, but it creates an effect that should not enter into this trial and I move for a mistrial on this ground.

The Court: Motion denied.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

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EDWARD J. PHILLIPS, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Where do you live? A Union, New Jersey.

Q Were you in Newark sometime on July 19th of this year? A Yes.

Q Did you go up on Mt. Pleasant avenue near Clay street? A Yes.

Q At about what hour? A Somewhere around ten o'clock, I don't know just the exact time.

Q How long did you stay there? A Oh, maybe ten minutes, maybe fifteen minutes.

Q At the time you arrived was there any excitement or signs that something unusual had happened? A Yes.



Q Did you find anything on the pavement up there? A Yes.

Q I show you what would appear to be cartridge cases and ask you to look at them carefully and see if they are what you found? A Yes, they are.

The Court: Mr. Prosecutor where did the witness say the cartridges were found?

Mr. Bigelow: He did not state exactly, he said on the pavement.

Witness: In the gutter.

Q Whereabouts with reference to the Reid plant? A In front of it, just the exact position I cannot tell you, but it was in front of the Reid plant.

Q Do you remember if there was a small automobile in front of the plant facing towards Clay street? A Yes, sir, I think there was.

Q Do you remember where they were found with reference to that? A In front of the car, this way from the car, towards Clay street.

Q And that was on the east side of the street? A Yes, sir, on the east side of the street.

Q And that was on the east side of the street? A Yes, sir, on the east side of the street.

Q And what did you do with these? A I stopped and picked one up, and as I picked it up, why, an officer asked me what I found, he touched me on the arm and asked me what I had found, and I said I found one of the exploded shells and then he made me g've my name and address, he said he wanted it for evidence.

Q Did you give it to him at that time? A I gave him that one at that time and I put my foot on the other one and picked it up later.

*Edward J. Phillips, cross.*

Q And what did you do with the other one later? A I took it home and gave it to the Chief of Police in Union.

Q And what was the condition of these shells when you picked them up, were they the same as they are now or were they fully loaded? A No, sir, they are the same as they are now, except they were covered with a coating of clean oil.

Q Is that the heavy oil that is frequently used to pack cartridges, do you know? A No, sir, not to pack cartridges; that is a grease they pack cartridges with, but this was an oil, a clean oil. That is all the difference I could see.

*Cross examination* by Mr. McGeehan.

Q Are you connected with the Reid Company? A No, sir.

Q You are not the Mr. DePhillips who was the cashier there? A No, sir, no relation.

Mr. Bigelow: I offer the two shells in evidence.

The Court: What time was it, Mr. Phillips you say you found those?

Witness: Why, Judge, I should say it was somewhere between ten and half-past. That is as near as I would care to go on record. It might have been a quarter after or twenty minutes after.

(The shells in question are received in evidence and marked Ex. S. 17.)

An adjournment was then taken until tomorrow, Saturday, November 20, 1926, at one o'clock, P. M.



*Charles G. Carrington, direct.*

## SIXTH DAY

Saturday, November 20, 1926.

Appearances as before stated.

Trial continued.

CHARLES G. CARRINGTON, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Where do you live? A 111 Sherman avenue.

Q Here in Newark? A Yes.

Q Were you in the army during the late war? A Yes.

Q In what organization? A 811th Infantry.

Q What was your rank? A First sergeant.

Q What is your business now? A Porter, Pullman Company.

Q Were you employed in Huber's Bath during the month of July of this year? A Yes.

Q Where is that bath establishment? A 10 West Park street.

Q Here in Newark? A Yes.

Q How long were you with them? A For about five years; between four and a half and five years.

Q When did you leave them? A About five weeks ago.

Q What was your position there during July? A Porter.

Q Were you on the day shift or the night shift, or did you sometimes change? A I changed every Tuesday.

Q Do you remember on which shift you were on July 4 of this year, the 4th of July this year which was Sunday? A Yes.

Q Which shift were you on at that time? A I was on the night shift.

Q And then, as I understand, you went on the day shift on the following Tuesday, which was July 6th? A Yes.

Q And how long did you remain on the day shift? A Until the next Tuesday, at 10 o'clock.

Q Now, on the next Tuesday, which was July 13, you went on the night shift again? A Yes.

Q Now, during the week beginning Tuesday, July 13, while you were on the night shift, did you see at the baths any of these defendants, Big Joe Juliano, Christopher Barone, Ruff or Little Joe Juliano? A Yes.

Q Which one? A Joe Juliano and Chris Barone.

Q Will you point out which defendants you mean? A There is Chris Barone.

Q Where is he? A Over there with the handkerchief in his coat pocket.

Q Count from the wall? A Between those two officers there.

Mr. McGeehan: Stand up, Barone.

Q Is that the man? A Yes.

Q Do you see anybody else there that you saw there? A Yes, Joe Juliano.

Q Which one is he? A Right here.

The Court: That man there?

Witness: Yes, sir.

Q Anyone else in that row? A I think that is all, I think, I seen that night.



Q Perhaps your view is being blocked. You can stand up or walk down here in front if you want. A There is another fellow there I recognize.

Q Which is the other fellow you recognize? Go in front of him and point him out. A That fellow over there.

The Court: The man with the grey suit?

Witness: Yes.

Mr. McGeehan: Indicating the defendant Capozzi.

Q Do you know that last man's name? A No, sir, I don't know his name.

Q Did any of these three men give you anything to keep for him while he was in the baths or they were in the baths?

Mr. McGeehan: I object to that as being irrelevant.

The Court: It might or might not be. I will allow the question.

Mr. McGeehan: As being irrelevant to the inquiry here and not in any respect material. It being at a time alleged to be a week or more prior to the occurrence of this alleged crime.

The Court: I will allow it.

Counsel for Christopher Barone, Joseph Juliano alias Big Joe and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

Q Will you answer the question? A Yes.

Q Which one gave you something? A Joe Juliano gave me a bundle.

Q What did he give you?

Mr. McGeehan: I object on the same ground.

The Court: I will allow the question.

Counsel for Christopher Barone, Joseph Juliano alias Big Joe and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A Revolvers, wrapped up in a cloth.

Q How many? A I think it was three revolvers.

Q Do you recall of what calibre these revolvers were? A Well, I don't recall, but from the looks of them, it was very large revolvers.

Q Now, do you remember whether they were revolvers or automatics? A They were revolvers.

Q Did you have any conversation with Juliano on the subject ? A When he gave me the package, I told him that I did not like to take care of anything like that, because it might get me in trouble.

Q What did he say? A He said, "That's all right."

Q Who was present when you and Juliano had this conversation? A Who was present?

Q Yes? A Chris Barone was present.



*Cross examination* by Mr. McGeehan.

Q When was that, did you say? A What is that?

Q When was that that this occurred? A It was—the time he gave me the revolvers?

Q You are saying that on an occasion Joseph Juliano gave you some revolvers, is that right? A Yes.

Q Now, I am asking you when that was? A That was in July.

Q What date in July? A What date?

Q Yes, what date? A Date?

Q Yes. A I can't recall the date.

Q Well, can you recall what week? A It may have been the second or third week in July, something like that.

Q It might have been the second or third week? A Yes, as near as I can get it.

Q What were you, a porter there? A Yes.

Q How long had you been a porter there? A Oh, about five years; four or five years.

Q And during that time how many men a night come in and go out of that place? A Well, some nights it was about fifty would come in and some nights about thirty-five, something like that. You never can tell.

Q And you worked every night, did you? A Not every night.

Q When did you shift from day to night, how long did you stay on each shift? A Every Tuesday I changed shifts.

Q So, you would work a week nights and a week days, is that right? A Yes, sir.

Q What weeks did you work nights in June? A June?

Q Yes. A I don't recall what weeks I worked nights in June.

Q And you don't recall which week you worked nights in July, do you? A July, I was, on the 4th of July I was working nights.

Q Well, if you were working nights on the 4th of July, then you were working nights the first week in July, weren't you? A The 4th of July, yes, sir, I changed shifts between that, too.

Q What is that? A I changed shifts every Tuesday.

Q If you were working nights the 4th of July you were working nights the first week in July, weren't you?

Mr. Fisch: I object to that, if the Court please, as calling for a conclusion and further the witness has already said that he changed his shift on Tuesday.

The Court: What date does the 4th fall on?

Mr. McGeehan: Well, it must have been the first week in July.

Witness: The 4th was on a Sunday.

The Court: Then, I think he said he changed the 6th.

Q Yes, and I still ask you if you worked nights the first week in July? A I worked nights the first week in July?

Q Yes. A Yes, sir, the first week in July.

Q Well, how could you say a minute ago and think a minute ago it was either the second or third week in July, you know if you worked the first week in July you would not be working nights the second week in July, don't you? A I would be working nights the third week in July.



Q Yes, but you would not be working nights the third week in July, would you? A Some part of it I would, wouldn't I?

Q You know when the second week in the month is, don't you? A Yes, sir.

Q And when you said the second or third week in July what made you think it was the second if you were not working there nights in the second week? A Why, you cannot very well keep up with it. I know on the 4th of July I was working nights.

Q You know on the 4th you were working nights? A Yes, sir, I know that.

Q You did not always change on Tuesdays, did you? A Every Tuesday, that is the day I change my shift.

Q Now, the night that you say you received some guns from the defendant Joseph Juliano, was that the first night you were working on a night shift for that particular week? A I don't know whether that was the first night, no, I would not say.

Q Do you think it was the last night of that night shift? A I cannot say just what night it was.

Q Do you think this might have been in August? A No, I don't believe so.

Q Why not? What makes you think it was even in the month of July? A What makes me think it was in the month of July? Because I was working nights on the 4th of July.

Q Yes, but you worked nights in July and you worked nights in August and you worked nights in September, you worked nights in June and May and other months, didn't you? A Sure.

Q Now, what made you think that that took place in July, as distinguished from any other months? What made you remember now in the month of November just when it was? A That is the nearest to my recollection that I can remember it.

Q Yes, but what made you think that time was probably that time, what impressed it on your memory, if anything? A I went on my shift working nights on the 4th of July.

Q So at the third week in July you were working nights, is that right? A The third week in July?

Q Yes. A Well, when did I change? I changed shifts every Tuesday.

Q I am not asking you how you remembered that you worked certain night shifts in July, I am asking you how you ever remember the month that Joseph Juliano gave you these guns? A How do I remember the month?

Q Yes, why don't you think it was in August? A Well, on several occasions he gave me guns, he did not only give them to me once.

Q Oh, then, on several occasions you say it happened? A Yes, sir.

Q Before or after the time you testified in questions by the prosecutor? A Sir?

Q Was it before or after the time you spoke of on your direct examination that he gave you guns, was it before or after? A Yes.

The Court: Do you understand that question? The prosecutor directed your attention to some time in July, after July 4th. Now, Mr. McGeehan wants to know whether or not he had given you guns before that time or after that time.



Witness: Before the 4th or after the 4th?

The Court: Yes, sir.

Witness: Well, I know I received guns before that time, before the 4th.

Q Now, you have received guns down in Hubers—before, haven't you from different people? A No, sir, not from different people.

Q What? A No, sir.

Q Sure of that? A Positively.

Q Why, wasn't Huber's Baths held up a week ago and a gun gotten in one of the boxes?

Mr. Bigelow: I object.

The Court: Strike that question out.

Mr. McGeehan: I ask an exception.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

The Court: Mr. McGeehan, this witness said he is no longer with Huber's Baths.

Q How long is it since you left them? A Five weeks ago.

Q So you were not there two weeks ago? A No.

Q Now, you often received guns there? A Yes, only from one person; no one else ever asked me to take care of any guns.

Q Did the police question you this morning in this building, in the prosecutor's office; were you questioned about this this morning? A This morning?

Q Yes. A Yes.

Q And when were you questioned before that about this? A Last night.

Q When were you questioned before that? A That is the only time, last night and this morning.

Q Who questioned you last night? A I think Detective Gannon, I think; is that his name?

The Court: Is that the man standing near the door.

Witness: Yes, sir.

Q Now, did Detective Gannon show you the register of Huber's Baths containing the record of people who stayed there in the month of July?

Mr. Fisch: I object to that. I do not think it is proper what he showed him.

The Court: I will allow it.

Q Did he show you the register of Huber's Baths? A No. sir, I didn't see any register.

Q Are you sure about that? A No, sir. He only questioned me. He didn't show me anything.

Q Did he show you the register of Huber's Baths containing Christopher Barone and Joseph Juliano registered there in July? A Did he show it to me?

Q Yes. A I heard him talking about a register, but he did not show it to me personally.

Q Now, when you heard him talking about a register, what did he say about it? A He asked me did I know these men.

Q Yes, and what did he say about the register? A He said that they were in the baths in the month of July.



Q He told you they were in the baths in the month of July, that is right? A Yes.

Q Now, did he also tell you that they were in the baths on the 14th of July? A I think he did, yes, sir.

Q And that is how you were able to remember the date from what the lieutenant told you, isn't that right? A No, sir.

Q Well, he told you that last night, that they were there on the 14th, didn't he? A He didn't tell me that personally.

Q Well, he didn't tell you that personally; who did he tell it to when you testified a couple of questions back?

Mr. Bigelow: I don't think he did.

Mr. McGeehan: I say quite positively, your Honor, as to this question that the witness did testify that he heard him say that they were there the 14th of July.

The Court: He said he heard him talk about the register and he thinks that he said they were there on the 14th.

Q Now, you still think you heard him say they were there on the 14th? A I think, but he did not show me the register.

Q Now, in the question I asked you, which I will repeat, I asked you this, you said that they were there in the third week in July, because you heard Mr. Gannon say that they were there on the 14th of July, is that right? A He was talking to someone else. He was not talking to me.

Q All right, but he was talking so you could hear him? A Yes.

Q And you heard him? A Yes.

Q And he had something in his hand, didn't he? A I was not paying that much attention to it, what he had in his hand.

Q Well, was he looking at a paper or some sheet? A Well, there was a bunch of them around; I didn't take notice.

Q Now, that is the only way you know that these men, the defendants Barone and Juliano, were there on the 14th, is that right? A That is the only way I know.

Mr. Fisch: I submit that the witness has not testified that he knew they were there on the 14th.

Q That is the only thing that makes you say they were there the second or third week in July, isn't it; that is the way you fix the time, isn't it? From what you heard him say? A What is that?

Q That is the way you fix the time from what you heard Mr. Gannon say? A That is the way I fix the time?

Q Yes. A Between that time you say he was at the baths?

Q The time we are talking about, that is the way you fix it from what you heard the lieutenant say last night either to you or in your presence?

Mr. Bigelow: I object. He did not refer to a book.

The Court: Suppose you change your question.

Q That is the way you fix the time, from what you heard the lieutenant say in your presence about the 14th? A It was not particularly on the 14th, I don't think.



Q You said the second or third week, didn't you? A Yes, but not particularly on the 14th.

Q Now, Joseph Juliano has been to your baths a number of times? A Yes.

Q And the defendant Barone has been to your baths a number of times? A Yes.

Q Now, as a matter of fact, you have seen the defendant Capozzi there two or three times there altogether, have you not? A Yes. I seen him more times than that. I seen him a half a dozen or more times than that.

Q Now, you do not know that he was there in the month of July, do you? A No, but I think he was. I would not say positive.

Q And you would not say positively that these two men were there, would you, in the month of July, from your own memory? A Well, they were there every week practically; practically when they were in the city nearly every week.

Q All right, then, they were there every week in June, weren't they? A Well, if they were in the city, sometimes they were there two or three times a week, and sometimes you would not see them for a couple of weeks. You know that they were there now from what the lieutenant said, don't you, on the 14th of July? A He was not telling me particularly they were there on the 14th of July.

Q He was telling some one else, was he? A He was not talking to me in particular.

Q No, not to you particularly, but he was telling some one else, wasn't he? A I heard him talking there.

Q Where were you questioned, police headquarters? A Yes.

Q Were you arrested before you were questioned? A There was a notice at home for me when I came from Chicago.

Q What is your business now? A Pullman porter, Chicago to New York.

Q And did the police tell you that they knew that these defendants had checked guns with you while you were there? A Did they tell me that they knew it?

Q Yes. A Yes.

Q They told you that, didn't they? A Yes, sir.

Q And they told you that you would have to come and say they had done that? A No, they did not say that I had to say it, but they told me they wanted the truth, that was all.

Q But they told you then that that was the truth which they knew, that you had received guns from them? A They told me they knew I had received guns from them.

Q Did they tell you that you would be charged with the illegal possession of fire arms because you had guns in your possession at Huber's Baths at some time? A What is that?

Q Did they tell you that you could be charged with illegal possession of fire arms, of a gun, because you had them in your possession at Huber's Baths sometimes?

Mr. Bigelow: I object, I don't think that the facts show any such charge could be made against the witness.

Mr. McGeehan: I object to the interruption, I think the question is a proper one.

The Court: It is bearing on his credibility, I will allow him to answer.



Q Will you answer the question? A What is the question?

Q (Last question read as follows:) "Did they tell you that you could be charged with the illegal possession of fire arms, of a gun, because you had them in your possession at Huber's Baths sometimes?" A No, sir, they did not tell me that, but I knew I could be.

Q And without their telling it to you directly did you know from the way they acted that you could be charged with it?

Mr. Fisch: I object to that.

Mr. McGeehan: Withdrawn.

Q Did they say whether they would keep you there or not if you did not tell them what they called the truth about this? A No, sir, they did not say whether they would keep me there, all they wanted was the truth.

Q When they were asking you to tell the truth they told you they knew they had given guns to you? A That they knew?

Q Yes. A They told me, they asked me did I check guns and I said "Yes, sir."

Q How long did they have to question you before you told them "Yes, sir." A No answer.

Q How long did they question you before you told the truth? A How long?

Q Yes. A They questioned me, I guess, about a half an hour.

Q That is before you told them? A Before I told them?

Q That you received guns there? A No—yes, about a half an hour, I guess.

The Court: You mean that before you told them you had guns at the baths it took one-half hour to do that?

Witness: Yes, sir.

The Court: Did it take a half an hour?

Witness: No, the captain questioned me down there in headquarters.

The Court: Is that the man (indicating Captain Brex)?

Witness: Yes, sir, that is the captain.

The Court: How long were you questioned before you said you had received guns?

Witness: How long?

The Court: Yes.

Witness: I said a half an hour, maybe fifteen minutes to twenty minutes, something like that, as much as I can remember, Judge.

The Court: When they asked you did you receive them from anybody did you deny it?

Witness: No, sir.

Q So you are not sure at all, are you, that Capozzi the man that you pointed out in the gray suit was there that night at all, are you? A I think—I would not say for sure.

Q You would not say for sure? A I cannot remember so far back as that, not so much.

Q His face looks familiar to you, doesn't it? A Oh, yes, I know him. I have seen him.

Q You have seen him there, haven't you? A Oh, yes.

Q But you cannot say whether he was there that night or not? A I just told you I cannot say positively, he might have been there and he might not.

Q Well, now, how is it after talking with the police that you could say positively that he



was there that night with them on your direct examination?

The Court: Is that the direct testimony, Mr. McGeehan?

Mr. McGeehan: I think it is, yes, sir, "Who else was there that night," and he went over and picked him out.

The Court: I don't know whether he gave the night definitely, I think he said the week, that is my recollection.

Mr. Bigelow: I recall that he testified, with reference to the conversation with Juliano, that Barone was present, but he did not testify that Capozzi was present during that conversation.

Mr. McGeehan: My recollection is that he did not mention a specific day, but he says at some night during—he used the statement every week, some particular night, however, the defendants, the three of them, he said were there.

Q Now, how is it that if you are not at all sure of that now, how is it that you were sure of it on your direct examination; can you tell us that, or weren't you sure of it? What made you sure of it on your direct examination? That is what I want to know. A Well, you know it is hard to go back and look up all those things, it is pretty hard, you know.

Q I know it is, and how is it you were able to do that hard thing when you got on the stand on your direct examination? Did the police tell you he was there, or to say he was there? A No, they didn't tell me to say that.

Q They mentioned his name to you? A Yes.

Q What name did they mention to you? A What do you mean?

Q Of the man in the light suit. A What name? He is called Kid Ruff.

Q So they mentioned the name Kid Ruff to you last night? A Yes, did I know him.

Q Did they ask you if he was that night that you were going to say one of them had given you some guns? A Did they mention his name?

Q Yes. A I think they did mention his name and asked me if he was there.

Q And did they tell you that they knew he was there that night? A That they knew he was there?

Q Yes, did they tell you that? A I wouldn't say for sure whether they did or no.

Q Just think. You want to tell the truth on the stand there. A Yes.

Q Now, try to think what they said about Kid Ruff.

The Court: Answer the question.

A Ask me the question again.

Q Try to think what they said about Kid Ruff when they mentioned his name to you. Did they tell you they knew that he was there that night? A I think they asked me was he there that night.

Q Yes. Did they tell you they knew he was there with them on the 14th? A I cannot say for sure whether they did or not.

Q You are not afraid, are you, on the stand; are you afraid of anybody? A No, sir; I am not afraid.

Q You are not afraid to tell the truth of what happened there last night, are you? A No, I am not afraid.



Q Did they mention Kid Ruff at the same time you heard them saying the 14th that Barone and Juliano were there?

Mr. Bigelow: Is there any evidence that they said those two were there on the 14th?

Mr. McGeehan: Yes, not to him, but he heard them saying it, but not directly to him.

Q Now, not directly to you, did you hear them saying in addition to the fact that Barone and Juliano were there, did you also hear them say Kid Ruff was there, and is that when you heard the name Kid Ruff mentioned, is that what happened? A Did I hear the name Kid Ruff mentioned then?

Q Yes, when you heard the police saying that they knew that Juliano and Barone were there on the 14th of July. A They did not mention Kid Ruff's name, I don't think. It was some other name.

Q Some other name. Was it Capozzi? A It was not Capozzi. It was Joe something. I forget. I just don't remember.

Q Was it anybody that you knew, the other name that they asked you? A It was no one I knew.

Q It was not anyone you ever saw at the baths; you never saw any of those other men sitting there in your baths at all, the other men sitting in this row?

The Court: Where the defendants are?

Mr. McGeehan: Yes, sir.

Q You never saw this man—stand up—you never saw him there? A He might have been

there. I might have seen him, and did not pay any attention.

Q You do not remember ever seeing him, do you? A No, sir; I do not remember him.

Q You never saw him together with Big Joe Juliano or Barone or Ruff, did you? A I never seen him with those three you mean?

Q Yes. A I could not exactly say that, because so many of them come in, strangers come in every night.

Q Sure, but you remember Big Joe Juliano being there quite often? A Yes.

Q And you remember Chris Barone being there quite often? A Yes.

Q And you remember Capozzi being there several times, don't you? A Yes.

Q You remember that well, without remembering the exact date? A Yes.

Q Well, now, you never saw him with them, did you, at any time?

Mr. Fisch: Who?

Mr. McGeehan: Young Joe Juliano.

A I can't remember.

Q You never saw this man over here with them, did you? (Indicating Robert Boudreau). A I can't remember, no, sir.

Q What time of the night did this happen, that you say happened? A Did what happen?

Q That you say you received some guns from the defendant? A What time that night?

Q Yes. A Oh, two, two-thirty or three o'clock, something like that.

The Court: In the morning, do you think?

Witness: Yes, sir, in the morning.



Q Now, sir, you said that the guns that you saw there were revolvers and not automatics, that's right, isn't it? A Yes, sir.

Q You have been in the army and you do know the difference between a revolver and an automatic, don't you? A Yes, sir.

Q You know that an automatic gun ejects the shell when it is fired, don't you? A Yes, sir.

Q And you know that a revolver does not, don't you? A Yes, sir.

Q Can you tell by looking at these whether these are automatic shells, or not, or whether they are from a revolver? A They look like revolvers to me.

Q You don't know much about it, do you, you don't know the difference between an automatic and a revolver shell, do you?

Mr. Bigelow: I don't think there is any difference, Mr. McGeehan, as a matter of fact.

Mr. McGeehan: Well, now, that may be true. I do know, however, that an expert can tell the difference.

The Court: I don't think that this man is qualified as a gun expert.

Q But you do know from shooting automatics and shooting revolvers that the automatics eject the bullets and the revolver does not, don't you? A Yes, sir.

Q What time did you say this happened, you haven't answered that yet?

Mr. Fisch: I submit, if the Court please, he has answered it.

The Court: He did, yes, he said 2:30 or 3 o'clock in the morning.

Q 2:30 or 3 o'clock, is that right? A Yes, sir.

Q Where did he take that gun out of? A I don't know where he took them out of, he just gave me the bundle, I could not see where he had taken them from.

Q A bundle, was it? A Wrapped up in a cloth.

Q Wrapped up in a cloth? A Yes, with a towel around it.

Q Did he come in with them on a tray? A No, sir, no tray.

Q Just in his hand? A Yes, sir.

Q And he gave you a bundle of them, is that right? A A bundle.

Q How many were in that bundle? A Two or three.

Q You don't remember whether it was two or three, do you? A (No answer.)

Q What did you do with those guns? A Why, I had taken them back and put them in my locker.

Q Got a big locker there, have you? A Yes, sir.

Q How many guns did you have you say the night this occurred, in your locker? A What was that?

Q How many other guns did you have the night you say this occurred in your locker? A How many others?

Q Yes. A I didn't have any others.

Q Was there any one else there when you received them? A Well, there was patrons around the bath there.



Q Standing all around where this happened, is that right? A No, lying down, some was lying, some was smoking.

Q Did he give them to you before he got undressed to take his bath or after? A No, when I asked him if there was anything they wanted done I then walked up to the locker and he gave me this bundle and told me to take care of it and I told him I did not like to take care of it.

Q Have they an office at Huber's Baths? A An office?

Q I mean is there any office or window arrangement as they go in? A Yes, there is an office.

Q Is that where you were stationed? A No, sir, I was upstairs.

Q What were you a rubber? A No, sir, I was a porter taking care of the dormitory, the sleeping quarters.

Q Then you would not see any one until after they were all through their Turkish Baths, is that right? A Oh, they would come upstairs to get undressed.

Q And then they would go back for their bath? A Yes, sir.

Q Now, this night when was it you received them, not with respect to time, but before or after these men had undressed? A That I received the guns?

Q Yes. A Before or after?

Q Before or after he undressed, do you know? A Well, he was getting undressed in his locker and I passed by and he said, "Take care of this bundle for me."

Q And then it was wrapped up in a towel? A Yes, sir.

Q Any one else in there with him at the time? A No, sir.

Q You don't know any one else who saw that happen? A No, sir, I can't say that I know anyone else that seen it happen.

Q What time did you go off duty in the morning? A Between 9 and 9:30.

Q And were you still there when he left there that next day? A No, sir.

Q You do remember him leaving? A No, sir, sometimes I would be there and sometimes I would not.

Q But on this occasion you don't remember him going home at all, do you, up to the time you left that morning? A No, sir, I don't remember.

Q But you do remember that he was not up yet when you went home? A I do remember that he was up?

Q Yes. A I would not say for sure that I do remember, because I cannot recall that far back.

Q Well, you don't remember one way or the other then? A What do you mean?

Q Whether he got up before you went home or not? A No, sir, I don't remember.

Q Then you don't remember him getting those things back at all, do you? A Yes, sir, I remember giving him them back because I would not leave them in the locker.

Q How could you remember giving them back to him if you don't remember whether you were still there when you got up or not? A I know when he gave me that bundle to keep I never would leave it over in the locker and I always gave that to him when I went home.

Q But you say you don't remember on this occasion whether he got up before you went home



or not? A I don't remember whether he got up or not, but I do remember that I always gave him his parcel back before I went home, I never would leave it in the locker.

Q Did you open the parcel to look in it? A No, sir, I never opened it.

Q You never opened it? A No, sir.

Q Then, how could you tell what was in it if you never opened it? A Well, you can take a towel and put guns in it and feel and tell what is in the bundle.

Q So you felt these guns, is that right? A Yes, I could feel the guns.

Q And yet you are willing to swear on your direct examination whether they were automatics or revolvers? A Oh, you can tell through a cloth whether they were automatics or revolvers.

Q And you never saw a gun that you say he gave you, never opened the package, is that right? A They were wrapped up in the package.

The Court: You said it was a package in a towel, which was it?

Witness: Wrapped up in a towel.

The Court: Was it tied up with a cord?

Witness: No, just wrapped up.

The Court: Loose?

Witness: Yes, just wrapped up.

Q And you never looked in, did you? A No, sir.

Q Then, how did you return them to him the next morning? A How did I return the guns?

Q Yes. A I had the bundle right there and I knew I had to return it to him.

Q But how did you do it, when did you return it to him? A If he was still sleeping before I went home I would wake him up and say, "Joe, I am going to give you this bundle," and then I would go back and get it out of my locker and give him the bundle.

Q But you don't remember saying it this time in July, do you? A I don't know, I can't recall.

Q As a matter of fact, you can't recall receiving any guns at all from him, can you, in July, from your own memory, not from what you heard any one say to you last night, can you? A I can't say.

*Re-direct examination* by Mr. Bigelow.

Q Can you tell what is wrapped up in this towel, feel of it? A Yes, there is revolvers.

Q Unwrap it and lets see whether you are right.

Mr. McGeehan: Just a minute, ask him whether it is an automatic or a revolver.

Q What kind of a revolver is that?

Witness: I don't think it is an automatic.

Mr. McGeehan: By the way, in your Turkish bath you have a little heavier towels than that, haven't you?

Witness: Yes, sir.

Mr. McGeehan: I object to the experiment or demonstration, because the evidence does not show that that is the kind of a towel or wrapping that was handed to the witness.



Mr. Bigelow: The experiment is completed any way.

Q Were you in my office in the corner of this building half an hour or so before Court opened this afternoon? A Yes.

Q And was Mr. Fisch, the gentleman here, and Mr. Linarducci and Mr. Giuliano and myself present? A Yes.

Q And Mr. Gannon there? A Yes.

Q Do you recall at that time I asked—

Mr. McGeehan: I object to this, or any questions that you asked this morning, because there was no cross examination of what happened this morning in the prosecutor's office.

The Court: No.

Mr. Bigelow: Well, the witness had the same understanding of the questions as I did, because the subject of his answers was what happened in my office this morning.

Mr. McGeehan: I object to that.

The Court: As I understood the questions, they were directed to what happened last night.

Q When did you first see a register of Huber's Baths within the last day or two.

Mr. McGeehan: I object to that on the ground that he has not at any time testified he saw a register of Huber's Baths.

Mr. Bigelow: He testified that in his presence someone looked at a register.

The Court: No, I think he said a paper. Do you say you saw a register?

Witness: I was sitting far away and they were talking about it.

Q Where was this, in what building, that you heard something said about a register?

Mr. McGeehan: I object to that. I do not think he has said—

The Court: Yes, he said he was sitting far away and he heard them talking about it.

Mr. McGeehan: That is something different. What he said he heard them say the 14th day of July, two, and possibly three, of the defendants were there.

Mr. Bigelow: Mr. McGeehan brought out in a half a dozen questions that somebody brought out a register.

Mr. McGeehan: He said he did not know what they were looking at.

The Court: I will allow this question.

A In this building.

Q When about was that? A Just a half an hour or twenty-five minutes before I came in.

Q And was that when you heard some mention of the date, the 14th of July? A Yes.

Q Now, last night at police headquarters, did you hear any mention of the date the 14th of July? A Last night?

Q Yes. A No, I didn't.

Mr. Bigelow: Your Honor, it seems to me evident that Mr. McGeehan has not mentioned any time in his questions. I recall distinctly one question which he framed—it put in last night, and I objected, because he was referring to the wrong date, and he reframed it.



Mr. McGeehan: It seems to me it is not very material whether it happened last night or this morning.

The Court: What you want to show is that probably the witness is mistaken?

Mr. Bigelow: I do not think he is. I think Mr. McGeehan is.

Mr. McGeehan: I will further examine the witness if you wish to clarify it.

The Court: I do not suppose there is any objection if it was some other time.

Mr. McGeehan: It does not make any difference whether it was last night or this morning. It is before he got on the stand.

*Re-cross examination* by Mr. McGeehan.

Q Now, you were taken to police headquarters last night? A Yes.

Q And who did the questioning of you down there? A Captain and lieutenant.

Q Captain Brex and Lieutenant Gannon? A Yes.

Q And it was Lieutenant Gannon that was doing the questioning of you? A Both of them was.

Q Now, were there a lot of people around in police headquarters at that time? A Well, there was some outside.

Q Were there a lot around inside? A In the office where we were?

Q Yes. A There was not many people.

Q How many about? A In the captain's office there was only one and I and Lieutenant Gannon.

Q Now, were they looking at something there, a book or papers, when they were questioning you last night in police headquarters? A No.

Q Did they ask you about these defendants there? Did they ask you about Juliano, Barone, Capozzi or Kid Ruff? A They asked me if I knew them.

Q And did they ask you about Huber's Baths? A Yes.

Q They asked you everything you were asked today? A Yes.

Q And they mentioned the 14th of July then, didn't they? A In headquarters?

Q Yes, last night, as well as this morning? A No, they didn't mention the 14th.

Q Then the time the 14th was mentioned to you was this morning in this building? A That is the first I heard of the 14th.

Q And when you were again going over your story; is that right. A This morning.

Q Last night, then, you did not know what week it was that these men were there together, did you? A No, I didn't.

Q And this morning, after hearing the 14th, they you did know what week it was, didn't you? A I tried to recall.

Q It was easy to recall, then, when you were there the 14th, wasn't it? A No, it wasn't so easy.

Q It was not so easy even then? A Because you do not know when you are wrong or when you are off.

*Re-direct examination* by Mr. Fisch.

Q You came to my office this morning in the building here, the prosecutor's office? A This morning.



Q Yes, or this noon? A Yes.

Q A little while before you came into the court room and took the witness stand? A Yes.

Q And you were in the company of Lieutenant Gannon? A Yes.

Q And Lieutenant Linarducci was present? A Yes.

Q And Detective Giuliano was there? A Yes.

Q And did I ask you any questions? A Yes.

Q And was there anybody else asking you any questions outside of me? A No.

Q I was the only one that was asking you questions? A Yes.

Q And did I ask you questions with regard to the date when these men were there in the baths? A Yes.

Q And did I ask you whether or not you could recall whether or not they were there in the month of July? A Yes.

Q And did I ask you whether or not you could recall what week you were on day shifts and what week you were on night shifts?

Mr. McGeehan: Every one of the last five questions has been testimony, and not a question. They are leading. All the witness needs to do is nod his head and say yes, and that is what the testimony is.

Q Now, how were you able to tell me whether you were on day shifts on July 4th? A Because I went to the ball game.

Q You went to what ball game? A Newark Bears and Jersey City.

Q And what date was that on? A That was on, I recall, the 5th.

Q The 5th day of July? A Yes.

Q The 4th fell on a Sunday? A Yes.

Q And you went to the ball game between the Newark Bears and Jersey City? A Yes.

Q And is that the way you recall that on that day on the 4th and 5th of July that you were working on the night shift; is that right? A Yes.

Q And then on that same week on Tuesday of that week did you change your shifts? A Yes.

Q Did you change to the day shift?

Mr. McGeehan: I object. This is not re-direct.

The Court: No.

Q Do you remember reading about the Reid hold-up?

Mr. McGeehan: I object to that as not proper.

The Court: Sustain the objection.

Q Can you tell this Court and jury whether the time when you say Big Joe Juliano gave you this package or this towel with guns in it was before or after the Reid hold-up?

Mr. McGeehan: I object to that as—

The Court: Sustain the objection.

Mr. Fisch: I think that is proper as to how this witness remembers the time.

The Court: I do not know whether he knows anything about the Reid hold-up.

Mr. Fisch: That is, I asked the previous question, if the Court please, whether that matter was ever called to the witness' attention.

The Court: Objection sustained.



Mr. Fisch: May I ask then, if the Court please, the question I previously asked.

The Court: I sustained the objection, Mr. Fisch.

Mr. Fisch: I mean now, with reference to the question as to whether—

The Court: Has it been answered?

Mr. Fisch: The question has not been answered.

The Court: The other question?

Mr. Fisch: As to whether or not the witness remembered the occasion of the Reid hold-up, I may ask that question?

The Court: Yes.

Q Do you remember the occasion of the Reid hold-up? A Yes, sir.

Q Do you remember reading about it in the paper? A Yes, sir.

Q Now, can you tell us whether or not the time when you testified Big Joe Juliano gave you a bundle with the guns in it was before that or after? A He gave it to me several times, before and after.

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JOHN J. BRACKEN, recalled.

*Direct examination* by Mr. Fisch.

Q Mr. Bracken, a question arose yesterday during the course of this trial with regard to this map. Did you, at my request, make a re-survey and a rechecking of the locality of Mt. Pleasant avenue on the westerly side of Mt.

Pleasant avenue since yesterday afternoon at five o'clock? A Yes, sir.

Q And what does the rechecking disclose, Mr. Bracken? A It discloses that I, in receiving the distance from my assistant, placed, instead of fifty-four feet, four feet in the place, and therefore the relocation on the westerly side is fifty-four feet further north and should come southerly.

Q That would be the lower down on Exhibit S. 1; is that right? A Yes, sir.

Q It should come southerly fifty feet? A Yes, sir.

Q Have you your original notes with you? A Yes, sir.

Q Do your original notes disclose that fifty foot error? A After checking them today, yes, they do.

Q And did you, at my request, make a new map of the westerly side of Mt. Pleasant avenue? A I did.

Q And can that map be superimposed on Exhibit S. 1? A Yes, sir.

Q And also on Exhibit S. 2? A Yes, sir.

Q Have you that map with you? A Yes, sir.

The Court: Has there been any markings on that map by witnesses?

Mr. McGeehan: There have been positions pointed out.

Mr. Fisch: Some positions by the photographer.

Mr. McGeehan: They will remain the same, of course.

Q Can you superimpose the map which you have made since yesterday, at five o'clock, on



Exhibit S. 1 so that it will properly show the relocations of the buildings on the westerly side of Mt. Pleasant avenue? A Yes, sir.

Mr. Fisch: If the Court please, I offer the superimposed map, which has been superimposed, on Exhibit S. 1.

Mr. McGeehan: I have no objection, except has it been measured? Has Mr. Bracken checked up on these places where it has been pinned?

Witness: Yes, sir, there is a continuation line which will reach across on the southerly side of the Reid plant, the platform which is now in line with that frame house No. 319; we just put that across there so it will check up and that fits in; that is the anchor point.

Mr. Fisch: I ask that that superimposed map be marked Exhibit S. 1A.

(The same is marked Exhibit S. 1A.)

Q Have you made a map to be superimposed on Exhibit S. 2 to show the correct positions of that building? A Yes, sir.

Q And is this the map which you have made? A Yes, sir.

Q And can you superimpose that on Exhibit S. 2 to show the correct situation? A Yes, sir.

Q Now, the map which you have just superimposed on Exhibit S. 2, does it check with the rest of the block which is shown on Exhibit S. 2? A Yes, sir.

Q And is it in its proper position? A Yes, sir.

Mr. Fisch: I ask that this map, which has been superimposed, be marked Exhibit S. 2A.

(The same is marked Exhibit S. 2A.)

*John J. Bracken, cross.*

Q Now, referring to Exhibit S. 1A, you have a brick building marked No. 319? A Yes, sir.

Q How many stories is that building? A That is a one-story building.

Q And by whom is that occupied? A A contracting company.

Q Is that the Sutherland & Allen Company? A That is the name.

Q And the brick building marked 311 to 317, what building is that? A That is a machinery company.

Q A rubber machinery company? A I cannot tell; the sign is over it.

Q And is there a large sliding door connected with that building? A There is a door connected with it; yes, sir.

Q Where trucks can enter? A Yes, sir.

Q Have you shown the position of that door on Exhibit S. 1? A Yes, sir.

Q Please show it to the Court and jury. A These two lines (indicating).

Q Those two pencil lines indicate the space of that sliding door? A Yes, sir; twelve feet.

Q And can you tell us how far north of the southerly side of the Reid Ice Cream Company's plant the most southerly side of the doorway of that machinery company is located? A You want it on the angle?

Q No; running on the westerly side of Mt. Pleasant avenue. A Just fifty feet.

Q And you have also shown that same doorway on Exhibit S. 2A by two pencil marks? A Yes, sir.

*Cross examination* by Mr. McGeehan.

Q Mr. Bracken, you have just referred to the doorway, haven't you, in the property known as 317? A Yes, sir.



*John J. Bracken, cross.*

Q And is that the building shown on Exhibit S. 11? A That is right here.

Q That is the building? A Yes, sir.

Q Now, which is the doorway? A Here (indicating).

Mr. McGeehan: The large doorway appearing in Exhibit S. 11?

Witness: Yes, sir.

Q I show you a window, a large window containing apparently sixteen small panes of glass; is that in that doorway in the same building? A Yes, sir.

Q Do you know whether that is indicated on the map? A No, I don't know whether we located that.

Q But that window is upon the picture, and from your memory it is somewhat south of the doorway in question, isn't it? A Just let me look at my book a moment, Mr. McGeehan, and we may have the notes.

The Court: What does the exhibit show?

Mr. McGeehan: Exhibit S. 11.

The Court: I mean what sign is on the building?

Mr. McGeehan: The United Rubber & Machinery Exchange.

The Court: Mr. Bracken indicated on Exhibit S. 1A the location of that?

Mr. McGeehan: Yes, that is the building we can agree is marked 311 to 317.

A No. We did not locate that, but it is south.

Q About how far would you say from looking at the picture and remembering the site? A

It is hard to tell on the angle pictures are taken in distance, but I would say it is probably midway or a little closer to the door than it is to the office door.

Q Well, at any rate, it is south. A It is south about 8 feet.

Q All right. Can we agree on eight?

Mr. Fisch: About eight feet.

Q Now, where would that window be with relation to the Reid office building, how far, if any, distant north of that center.

Mr. Fisch: Now, do you want him to take the angle?

A Some place along here.

Q Now, that is the northerly end of that window? A Yes, that is northerly.

Q Now, will you mark the southerly end of it? A Well, I would say that window looks to be four to six feet; at least four. I believe that would be the southerly end of it.

Q Now, would that be or not directly across from the center of the Reid plant? A It would be north of the center of the Reid place.

Q And how far north of the center of the Reid place, how many feet? A I would say anywhere from twelve to fifteen feet; that is, the center of the office building.

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BETTY M. HANLEY, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Where do you live? A 40 Howe avenue, Montclair.

Q Did you work for the Reid Ice Cream Company July 19, 1926? A Yes.

Q Where abouts, where were you employed? A In the office of the Reid building.

Q That is on Mt Pleasant avenue here in Newark? A Yes, it is.

Q On the east side of the street? A Yes.

Q On what floor? A Second floor.

Q Did you have a desk there? A I did.

Q Where was your desk with reference to the front of the building or the rear of the building? A It was in the front, the front of the building, the second window.

Q Will you look at Exhibit S12? A Right here.

Q Your desk was behind the window which is open there? A Yes.

Q The second window from the right? A Yes.

Q Was your desk—what kind of a desk was it? A It was a large desk, flat top.

Q Was it so placed that you faced the window, or did you have your side to the window? A No, my back was toward the window.

Q You were between the window and the desk? A Yes.

Q Now, at about 10 o'clock—maybe a little before or a little after—did anything happen to attract your attention? A Yes, it did.

Q Tell what happened. A Mr. Condit had just started downstairs and in a few minutes I

heard another girl in the corner, the last window on the right side, say, "They have got Mr. Condit." I walked over to the window where she was and looked out it. Mr. Condit had just fallen between the two cars, his car, the Chevrolet, and another big green car. There were about three men in between the two cars.

Q Was it Miss Galore, the other girl? A Yes.

Q At which window was she? A She was at the last window.

Q Again looking at S12? A Right there.

Q The window right next to you? A Yes.

Q At the corner of the building? A Yes.

The Court: That is to the right of the picture?

Witness: Yes, sir.

Q That is the window nearest Clay street, is it not? A Yes, it is. It faces the front. It was not on the side. It was in the front. There are two windows there.

Q The window faces out on Mt. Pleasant avenue? A Yes, it did.

Q Did you hear any shots fired? A I did, yes.

Q Was that before you heard the exclamation of Miss Galore or after? A It was about the same time.

Q Now, you have told us that you went to the window and looked out, and you have told us what you saw there. Did you go downstairs, or did you stay up? A Not right then. I did later, but not then.

Q Did you hear any more shots after you were looking out the window? A I did, yes.



Q Did you see where the shots were fired from? A No, I didn't. I couldn't say that I did.

Q Did you see the men who fired it, as far as you know? A Well, there was quite a scramble. I could not say just which one fired. The three of them had guns. I know that.

The Court: When you speak of the three, you mean the three men you spoke of, between the two cars?

Witness: Yes, sir.

Q Then what happened? A One man grabbed the bag from Mr. Condit and got in the car, the back of the car. The door was open. This was the Pierce-Arrow, which I learned later it was a Pierce-Arrow, and then there was another shot and I don't know who it hit or where it went, and shortly after there was another shot and Joe was being dragged from his car. This was the third shot fired and Joe, who was sitting in the Chevrolet, got out on the running board.

Q That is Joe Duff? A Yes, sir.

Q He got out on the running board? A Yes, sir.

Q And then what, if anything happened? A There was a scramble over the bags he had.

Q Did you see what became of that bag? A It was thrown in the car, back of the car.

Q Which car? A The green car, the big green car.

Q And then? A The man who had grabbed the bag from Mr. Condit sat in the back of the car, the green car, I heard a shot, and he looked up and pointed the gun at us and told us to keep our mouths shut.

Q Did the green car remain there? A It did for a few seconds.

Q You said that the green car remained there for a few seconds? A Yes, sir.

Q And then did it leave there? A It did, yes.

Q Which way did it go? A It went up Mt. Pleasant avenue.

Q That is—(interrupted). A North.

Q North? A Yes, sir.

Q Do you see in this room any of the men you saw there at that time? A Yes, sir, I do.

Q Which one?

The Court: Do you want to step down?

(The witness leaves stand and indicates the defendant Christopher Barone.)

Q When did you get a look at his face? A Just as he sat in the car and looked up at us, he must have looked at us for three seconds.

Q Whereabouts in the car was he sitting? A In the back, on the right-hand side.

*Cross examination* by Mr. McGeehan.

Q Miss Hanley, what time did you say this happened, about? A A few minutes before 10.

Q Are you pretty sure of the exact time? A I am not so sure of the exact time, but it was a few minutes before 10.

Q Some time around 10 o'clock, within a few minutes in either way, is that right? A Yes, sir.

Q And your desk was near a window? A It was, yes, sir.

Q I did not see which window you pointed out on this picture, but will you please tell me how



many from Clay street on the front of the building? A The second one.

Q And the first one is the one at that this other young lady was at, is that right? A Yes, sir.

Q Were you both working at the same desk? A No, we weren't.

Q You had a desk which is away from the window, is that right? A It faced away from the window, it was about a foot and a half away from the window itself.

Q And your chair was in between it and the window? A Yes, sir.

Q What was the first thing as you remember that you knew something had happened, was it shots or was it the shout of the girl? A It was both. I looked up at the shot and then when the girl shouted I went right over to her.

Q You looked up when you heard a shot or shots which was it? A A shot, one shot.

Q And then later you heard a girl scream and say what you said? A Yes, sir.

Q And then after that you got up? A Yes, sir.

Q Now, was the window open or closed? A They were both open, both windows.

Q Both were open? A Yes, sir.

Q And is there any radiator at the window? A No, sir.

Q What is there, if anything, underneath the window sill? A Which window are you speaking of?

Q The one that you went to particularly? A Oh, there is a desk—not a desk, a seat, a bench it is now, made into a bench.

Q Does it run lengthwise along there? A Yes, sir.

Q How long is the bench, about? A Oh, it is about three and one-half feet.

Q Just in front of that one window? A Yes, sir.

Q Looking out did you stand or kneel on the bench or stand behind it, if you remember? A No, on the bench and looked out, leaned over and out.

Q About how tall are you, please? A I am about five foot three.

Q And there is a stone sill on the window? A A stone sill?

Q I mean a stone window sill? A I know what you mean, there is.

Q This may refresh your memory. By the sill I mean the part right under the window (indicating on Exhibit S. 5). A Yes, sir.

Q Now, that is a pretty wide sill on the window, isn't it? A Rather.

Q What? A It probably is.

Q Would you say it is about a foot wide altogether? A No, sir.

Q Less than that? A Less than that.

Q Would you indicate to us just how wide that sill is?

The Court: Show us with your two hands.

Q You can show with your two hands. A Oh, it is no wider than that (it is conceded that the witness indicates a distance measuring about six inches).

Q Now, when you heard the shot did you hear another shot before you got to looking out of the window? A No, sir.



Q You think you heard the second shot after you were looking out of the window? A Yes, sir.

Q You did not see any one fire any shots, did you? A No.

Q And the second and third shots that you heard then were fired after you were looking out, but you could not see who fired them, isn't that right? A Yes, sir.

Q Now, what you did see, was the Chevrolet standing on the sidewalk? A Yes, sir.

Q And the Pierce-Arrow very close to it, didn't you? A Yes, sir.

Q And the distance between the Chevrolet and the porch was very slight, was it not? A No, it was not very slight.

Q Well, now, if the Chevrolet was standing on the sidewalk—just take a look at the sidewalk in the picture to refresh your memory, Miss; I think there is a picture of the Chevrolet standing in the distance. Now, does that picture show about where the Chevrolet was standing, in S. 11? A I think it was down further. I think it is correct in that it is nearer to the street. It is not to the porch rail, the steps that lead down.

Q Now, as you remember it, was the Chevrolet nearer to the steps that lead down than it seems to be or appears to be in S. 11? A Yes.

Q And by nearer you mean along toward Clay street further or to its left more? A Toward Clay street.

Q You think that the front of the Chevrolet was further toward Clay street than it looks in this picture? A Yes.

Q Now, with respect to where the front wheels of the Chevrolet were, was the front of

it about opposite the steps of the Reid Company's plant would you say, or do you think they were a little further toward Clay street? A They were a little bit back of the bottom steps.

Q In other words, the front of the Chevrolet was toward Clay street, but it was not quite up to the last step? A That is right.

Q Well, it is about where it is shown on the picture, I mean. Almost the same? A Yes.

Q Now, then, the distance, then, from the porch to the Chevrolet was not very much? A No.

Q And the distance from the Chevrolet to the big car that you saw standing down there was not very much, either, was it? A No.

Q In fact, the big car was closer to the Chevrolet than the Chevrolet was to the porch? A Yes, it was.

Q Now, how many feet, or can you show with your hands how close the big car was to the Chevrolet? A About that close.

Mr. McGeehan: Indicating about two feet.

Mr. Bigelow: Yes.

Q Now, when you looked out, you had previously heard Miss Galore say they got Mr. Condit? A Yes.

Q When you looked down, did you see Mr. Condit lying there? A I did.

Q And did you see his face or his side; do you remember how he was lying? A I remember he was lying on his back, with his hands out straight.

Q With his hands out? A Yes.

Q That way? A Yes.



Q Well did you see his whole body, could you see his arms? A I could see his arms, yes.

Q Now, to look out where Mr. Condit was, would your line of vision go down over the roof of the Chevrolet? A It would, yes.

Q Over the front of the Chevrolet? A Yes.

Q He was lying forward of where—so that Mr. Condit was lying somewhere around there, is that right? A Yes.

Q And you were at this window? A Yes.

Q And you could see that, couldn't you? A Yes.

Q And your vision would go over the hood or front of the Chevrolet, wouldn't it? A Yes.

Q Now, the Pierce-Arrow was pointing the other way, I think you said? A It was.

Q And within two feet of the Chevrolet? A Yes.

Q And right alongside of it? Is that right? A Yes.

Q Now, in looking down at this scene—you said you saw three men on the street, did you? A Between the two cars.

Q Three men? A Yes.

Q Were they running or walking or doing what? A Well, they were doing neither.

Q They were doing neither? A Yes.

Q Then they were more or less stationery? A No.

Q What? A No, most of them were bent over and seemed to be looking for something.

Q Bent over? A Yes.

Q Between the two cars? A Yes.

Q And do you think maybe you could be mistaken about whether there were three? A No.

Q Or are you pretty sure there were three? A I am sure there were three.

Q Now, you could not see those men very well, could you? A I could not see their faces, I could see what they were doing, but not their faces.

Q And what did they seem to be doing? A They were grabbing for the bag, the money bag.

Q That is what you concluded they were doing? A Yes.

Q Were they reaching in the Chevrolet? A They were.

Q Now, up to that time, only one shot had been fired? A No, two.

Q Well, when was the second shot fired? The first shot was fired before you looked out, is that right? A As soon as I got to the window the second shot was fired.

Q And at the same time the men when you were—when you got to the window, you saw Mr. Condit first of all lying there? A Yes.

Q And you looked down and saw these two cars and you saw three men? A Yes.

Q And just as you looked, you heard another shot? A Yes.

Q But you did not see anyone fall then? A No, I didn't.

Q And you did not see who fired that particular shot? A No, I didn't.

Q And by the way, what kind of hats did these men seem to have on? A Straw hats.

Q They all had straw hats on? A Yes.

Q And you did not get a look at any of their faces, then at all? A Yes, I did.

Q Then, I say? A No, not then.

Q Later on you did? A Yes.

Q Now, from the time you saw those men there—you did not see any other men except the men between the two cars? A No, I didn't.





Q And at that time you did not see Mr. Duff, did you? A No, he was in the car.

Q Already in the car? A Yes.

Q Now, from then on did the men at any time leave—the men that you saw, did they at any time leave the position between the two cars? A They did.

Q Well, where did they go? A One went in the back of the car after throwing the bag in.

Q And that is the man whom you say you recognize? A Yes.

Q And he went into the back of the car? A Yes.

Q From a position between the two cars? A Yes.

Q First throwing a bag in there, is that right? A Yes.

Q Now, what became of the other two, that left two between the two cars did it? A Yes, sir.

Q Or did someone else get in about the same time that the men got in with the bag? A No, that still left two there.

Q Now, did you continue to watch those men? A Why, I watched them but I did not pay any particular attention to them, because my attention was centered on the man in the back of the car who at that time was probably aware of the fact that we were watching him.

Q So you did not continue to look at Mr. Condit or the man between the two cars, but you had seen the man go into the back of the car and you centered your attention there, is that right? A Yes, sir.

Q Now, how many other girls were working in that office at the time? A There were three girls at that particular moment.

Q And how many more came in during this particular time? A No one else, no other girl came in.

Q Well, did any man come in during this time? A Yes, later.

Q Beg pardon? A Later some one did come in.

Q But did not some one come in—I forgot his name—and then run out to get a revolver? A Yes.

Q There was a lot of excitement there, wasn't there, during this time? A There was.

Q And of course, you were excited, weren't you? A I don't remember my feeling at the moment.

Q But you were shocked and surprised and excited by this tragedy? A Not then.

Q You were upset by it, weren't you? A No, I wasn't, not then.

Q Were you bewildered by it, were you looking all around at what was happening, bewildered by this transition of events? A No, I was not bewildered.

Q Now, you looked down and did that man that you saw get into the front or the rear of the Pierce-Arrow—could you tell by the way, it was a Pierce-Arrow? A No, I could not tell.

Q It was the big car—it has been called the Pierce-Arrow and the testimony shows it was a Pierce-Arrow, I will refer to it by that, and you will understand what I mean by that? A Yes, sir.

Q Did he get into the front or the back of the Pierce-Arrow? A Which man?

Q The man that you say you centered your attention on? A Yes, he did.



Q Which, the back or front? A The back of the car.

Q And that door was open all the time, was it? A Yes, sir.

Q And that door swung outward? A It was open, that's all I remember.

Q And if it was open, you remember it was open because it swung outward? A It was open when I got to the window and it remained open until it left.

Q Yes, but my question is, in being open, the door was hanging outside of the car, that is it swung out? A Yes.

Q You saw it straight out from the car, did you? A Yes, sir.

Q Now, when that door was opened, do you know whether it swung towards the rear of the Pierce-Arrow or swung towards the front of the Pierce-Arrow? A I don't remember that.

Q Can you remember whether in being opened it was up against the Chevrolet? A No, it was never up against the Chevrolet.

Q Was it almost up against the Chevrolet, it opened toward it, didn't it? A Yes, sir.

Q Well, now, perhaps you can remember by trying to remember whether it blocked those men in there from the rear of the Pierce-Arrow or the front of it? A I don't remember that.

Q Did they seem to be blocked in there or closed in there by the open door, did you get any impression that enabled you to remember that one way or another? A I know that they were confused but I do not know just why they were confused.

Q Now, when you say you saw that man get into the Pierce-Arrow what window did he look

out from? A The rear window, the side window I mean, but in the rear of the car.

Q The rear side window, I know what you mean, you mean the back window on the side of the car, not the window facing out in the back? A Yes, sir.

Q Now, that window was closed, wasn't it? A No, that window was open.

Q You are sure it was open? A I know it was open.

Q How many windows were in the rear part of the car beginning with the door—there was a window in the rear door, wasn't there? A I don't remember that.

Q Don't you remember whether there was any window in the door? A In the door?

Q In the door this man went through, that had a window in it, or don't you remember? A It probably did.

Q And it was not through that window, then, if there were one in the door, that you saw him? A No, sir.

Q Now, back of the door, back of the rear part of the machine—by the way, were there two or one door on that right side? A There were two doors.

Q Now, back of the rear of those two doors is the window that you speak of; is that right? A Yes, sir.

Q Were there one or two windows behind that door? A There was one.

Q Now, when you looked down he did not stick his head out of that, did he? A He did.

Q Stuck his head out and looked up that way? A Yes, sir.

Q Then, keeping his seat, he appeared to be keeping his seat? A No, I think he raised himself a little.



Q And did he have a hat on? A He did.

Q A straw hat, which you said you had seen between the two cars? A Yes, sir.

Q The same kind of a hat? A Yes, sir.

Q Now, when he looked up you were looking almost straight down, weren't you? A No, I was not; I was looking outward; I was not looking straight down.

Q If that automobile was two feet away from the Chevrolet you had to look over the Chevrolet in order to see the Pierce-Arrow at all, did you not? A I did; yes, sir.

Q And this Chevrolet was a closed top Chevrolet, wasn't it, as it appears in the pictures, wasn't it? A Oh, yes.

Q A coupe? A Yes, sir.

Q Now, do you remember in looking over at this man you looked over the entire top of the Chevrolet? A The rear of the big car came over the motor, not over the top of the car.

Q The rear of the big car, then, you could see without looking over the top of the Chevrolet, but by looking over the motor; is that right? A Yes, sir.

Q Now, in looking there you were looking at an angle, down, weren't you? A Yes, sir.

Q And the man whom you saw there, you could not see his whole face, could you? A I could.

Q With his hat on? A Yes, sir, with his hat on.

Q And could you see more than one side of his face when he looked up; did you get a side face view of him or a full pace view of him? A A full face.

Q And at the time you saw him, did you see what the other men were doing? A I could.

Q What were they doing? A They were grabbing for the bag Joe had in the car.

Q Now, you knew Joe was in that car? A I did.

Q And you knew that there was another bag? A Yes.

Q And you knew they were grabbing or you believed they were grabbing to take that bag from Joe then? A Yes.

Q And you knew that these men, or some of them, had guns and had been shooting? A Yes.

Q And you knew that the action that was taking place then was with relation to Joe and his bag? A Yes.

Q Now, don't you think your attention was quite intensely centered on that that was going on then when the men were trying to get the bag from Joe? A My attention was centered to the man in the back seat because he held the gun on us, but in the meantime I could see.

Q You mean to say the man in the back seat was holding his gun on you? A Yes.

Q Didn't that frighten you? A I was not thinking of myself at the moment.

Q Didn't you step back the minute you saw a gun was pointed up at you? A No.

Q By the way, wasn't another man pointing a gun at you? A I heard someone say something—

Q Not what you heard someone say in court, but did you see a man pointing a gun up at you? A No.

Q This was the only man, then, that you saw pointing a gun up? A Yes.

Q And did you see that Pierce-Arrow drive away? A I did.



Q And watched all the time? A I didn't watch it drive away all the time.

Q You saw it up to the time it was moving away? A Yes.

Q Then you did not see any other man point any gun outside of the man which you think you saw in the rear? A That is right.

Q Then you did not see any man on the front of the car come out and hang on the door and point a gun up at the windows? A I didn't.

Q Now, did you see those other two men get into the car? A I knew that they went in some place, but I do not know just where they did go, but they did leave.

Q Did you see whether the other two men at any time ran around the Chevrolet? A No.

Q Did you at any time see anyone running around the Chevrolet and going between it and the porch? A No, I didn't.

Q Now, did you see a young lady come to the window of the little brick factory just below your office?

Mr. Bigelow: I object. That is not cross examination.

Mr. McGeehan: I am trying to fix the time.

Q You did not see that? A No.

Q And were you excited and acting excitably at that window when that gun was pointed to you? A Well, I remember leaning over and out of the window.

Q And did you step back when you saw that? A When I saw what?

Q A gun pointed up at you? A No, I didn't step back.

*Betty M. Hanley, cross.*

Q You did not move out of the way at all? A No.

Q Did you think it was pointed at you? A I know it was.

Q At you, not the other young lady? A It was pointed at us, but it could be either one of us. We were very close together.

Q You were separated? A No, we were both at the same window.

Q Oh, you went to the same window as the other girl? A Yes.

Q Oh, I thought she was at one window and you were at another? A No.

Q And did you look out that same one? A The same one.

Q Now, at the time you looked at this whole thing took a second only? A No, it took more than that.

Q Well, it was very, very rapid, the succession of shots, up to the time that car drove away? A Yes.

Q And in that time were you able to see who that man was sufficiently to be able to describe him? A I did.

Q What? A I did.

Q Did you at any time look over pictures at police headquarters shortly after this occurrence? A I did.

Q And were you shown various pictures of different persons at police headquarters? A I was.

Q And of the pictures that you were shown, did you at any time pick out a picture of this defendant Barone as being the man you saw? A No.

Q Do you know whether you were shown a picture of him at police headquarters? A No, I don't know.



*Betty M. Hanley, cross.*

Q How many pictures were you shown down there? A Oh, quite a number. First we looked over the gallery.

Q And then certain ones were handed to you? A Yes.

Q Now, how many were handed to you, about? Among those certain ones that were handed to you? A Well, perhaps twenty.

Q Now, referring particularly to the twenty that were handed to you, do you know whether a picture of this defendant Barone was handed to you? A I do not know.

Q If it were handed to you, you did not pick it out; is that right?

Mr. Bigelow: I object to that.

The Court: Sustain the objection.

Mr. McGeehan: I withdraw that.

Q You picked no picture out? A Right.

Q Now, when they showed you the various pictures at headquarters, did they give you the names of whom these men were whose pictures you were looking at? A No.

Q And among the pictures that you were shown, were you ever shown a group picture with several men on it? A No.

Q Always individual pictures? A Yes.

Q Now, did you ever tell the police officers when you were questioned at headquarters after the robbery that one that you had seen there was a tall young man of light complexion? A Yes.

Q You said you thought someone there was tall and of light complexion? A I did, but I was not referring to the man who sat in the back of the car.

Q Miss Hanley, I think I was asking you about your telling the police officer that one of the men was of light complexion? A Yes, sir.

Q Did you get an impression that one of the men was of light complexion? A I did.

Q And you got that without being able to see his face at all? A I saw his face, but his features—I would not remember his features.

Q You cannot remember his features at all? A No.

Q You have no idea what they looked like? A No.

Q You just got an impression that he was of light complexion? A Yes, sir.

Q From the color of his face or hair or what? A No.

Q Did you see the hair of any men when they were leaning over? A No, their hats would cover that.

Q So you could not have any idea what the other men looked like at all? A Except when he straightened up.

Q You are speaking now of the man you identified here? A No, not that one.

Q But unless you looked straight up you have no idea of what he looked like? A No.

Q And you haven't any idea what the other man looks like? A No, sir.

Q And yesterday you did, when you were brought to police headquarters to a line-up, put your hand on another man beside Mr. Barone? A No, sir, I did not.

Q Didn't you? A No.

Q Now, you remember that day, don't you? A I do.

Q Was that on a Sunday afternoon? A No, that was not; it was the following Tuesday.



Q You were not there on a Sunday, then, were you? A No.

Q Now, after you picked out Barone did Captain Brex say to you these words, or words to this effect, "Isn't there someone else here that you can identify?"

Mr. Fisch: I object to that, if the Court please, to what someone else said to her.

The Court: Overruled.

Q Did he ask you that? A No.

Q Didn't you, after something was said to you by Captain Brex, not put your hand on the man but take hold of the sleeve of the other man on the lapel of the coat and say I think he was there, too? A No, I didn't do that.

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

Q Now, if you did not go down until Tuesday you saw a lot of pictures in the paper on Sunday and Monday and Tuesday, didn't you? A No, I did not.

Q You did not? A No, sir.

Q You read newspapers, don't you? A I do.

Q You live where? A Montclair.

Q Do you take the Newark Evening News? A We do not; no, sir.

Q What papers do you take? A The New York Journal.

Q Do you take the Sunday Call? A No, we take the New York American on Sundays.

Q The New York American and the New York Journal? A Yes, sir.

Q Now, you read the Newark papers, don't you? A I do sometimes.

Q How many people live—you live there with your parents, don't you? A I do.

Q And have you grown brothers and sisters? A No, sir.

Q Is your father and mother living? A Yes, sir.

Q And does your father bring the papers home? A No, they are delivered.

Q Now, when you were sent for you were sent for to come down to police headquarters? A I was.

Q And didn't you know up to the time that you went down to police headquarters that several men were arrested and charged with the hold-up of the Reid Company, that you had seen? A I knew it on Monday night, not on Sunday.

Q All right, then, we will eliminate Sunday. You knew it on Monday, didn't you? A Yes, sir.

Q On Monday you read all about it in the papers, didn't you? A I knew that it was in the papers.

Q You read about it in the papers, didn't you, Miss? A Yes, once in the Journal.

Q In the Journal. Now, you knew Mr. Condit who was killed, didn't you? A I did.

Q And you knew Mr. Duff who was shot? A Yes, I did.

Q And you knew your company had been robbed of a large sum of money, is that right? A Yes, sir.

Q And you had seen all this happen, hadn't you? A Yes, sir.

Q And from every standpoint you were interested in whatever development would come in any way toward the apprehension of the men charged with that, weren't you? A I had been to a few line-ups before.



Q You had been to two line-ups before? A Yes, and so my interest was not as much at the last line-up, but I thought I would go there as it was at the first time.

Q You had been to two line-ups before? A Yes, and my interest was not so much at the last line-up as it was at the first time.

Q But still you had never seen any pictures in the papers or big headlines about people being charged with it before? A Not that I remember.

Q Now, didn't you at the office see any papers brought in by the girls concerning the arrest? A No, I didn't.

Q You didn't? A No.

Q Do you get a paper to read going down in the car to your work? A I do.

Q Do you get the Ledger? A No, I get the Daily News, or I did get the Daily News.

Q A New York paper? A Yes.

Q And you are pretty sure you did not see any pictures in the papers in the two or two and a half days that preceded your going before the line-up from Sunday morning? A Well, I am not quite sure about Monday.

Q Do you think you might have seen pictures Monday? A I may have.

Q Now, I show you page 2 of the Newark Evening News on Monday, October 18th, and ask you to look at some pictures appearing there in the part marked by black pencil. Are you looking at those pictures? A I am.

Q Do you remember seeing that on Monday? Just take your time and look at it and look at the printing underneath it, if it helps to refresh your recollection. Do you remember whether

you saw that picture? A Well, I do not remember. That is the Newark Evening News?

Q Yes. A No.

Q Do you remember whether you saw in any paper, New York or New Jersey, those pictures before you went down to police headquarters? A No, I don't.

Q You do not remember either way, then, can you? A No.

Q But you are not sure whether you saw such pictures on Monday? A No.

Q Now, when the men were in the line-up, were their heads covered or uncovered? A They were covered.

Q With what kind of hats? A Well, I know they were not straw hats.

Q They were not straw hats? A No.

Q Then of course, do you know what kind of a hat Barone, the man you picked out as looking like the man you saw the day of the hold-up?

Mr. Bigelow: I object to that. She said he was the man.

Q You say he was the man because you think and believe he looks like him? A Yes.

Q That is the reason you say he is the man? A Yes.

Q Well, now, on that day, what kind of a hat did he have on, if you remember? A I do not remember, but I know that it was not straw.

Q And of course, the effect—the appearance was different with a different kind of a hat on? A I was not remembering his hat, or the way he was dressed, as I was remembering his features.

Q And you picked him out because, as you remembered the face, you had seen a few



months before, about four months before, as far as you remember, he looked like that man? A Yes.

Q Now, you have been mistaken in your young lifetime on memory of faces?

Mr. Fisch: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Whatever you read in the New York paper on Monday, gave to your mind the impression and belief that the policemen of Newark had arrested five or four or whatever number of men it was that were guilty of doing the Reid job; that is the impression you got, wasn't it?

Mr. Bigelow: I object to that.

The Court: I will allow it.

A No, I won't say that. The paper was very vague about it and did not give the names or anything about it.

Q It was vague in your mind at the time you made the identification?

Mr. Fisch: I object.

The Court: Quote the witness correctly.

Mr. McGeehan: I may have misunderstood, what did the witness say in answer to the last question.

(The stenographer reads as follows:)

"I wouldn't say that, the paper was very vague about it, and did not give the names or anything about it."

Q The paper was vague about it, was it, that you read? A Yes, sir.

Q It did not give any names at all? A No, sir.

Q What did it say? A It said that men have been arrested in connection with the crime and that is all that I remember of it.

Q You did not remember any names being given? A No, sir.

Q Did it say one man implicated and charged by the police with it had said other men were involved with it? A No.

Q When you got into that line-up, from what you had read in the paper, you understood or believed that certain men were charged in the Reid case with this crime, didn't you? A That did not help me at all, in identifying the man, because I read that.

Q But you did know that, didn't you? You knew that a certain number of men, five men were charged with the crime, didn't you? A I knew that that was in the paper.

Q Now, when you went in there, do you remember how many men altogether were in the line-up, how many men other than the man you picked? A There were perhaps twenty-five, twenty to twenty-five.

Q And at the time you looked over that line-up was any one else looking over it at the same time? A No, sir.

Q Were some other people waiting outside? A There probably were.



Q Did you see a little boy on the stand yesterday? A I did.

Q Did you see him there that day?

Mr. Fisch: Now, if the Court please, I object that is not cross examination.

The Court: Sustained.

Mr. McGeehan: I think, your Honor, I ought to be allowed to show the circumstances of the identification.

The Court: Not on cross examination.

Mr. McGeehan: Well, may I make her my own witness?

The Court: Not at this time, you may call her as part of your defense.

Mr. McGeehan: I thought it would save time, that would be the only question I would ask her and I am willing to be bound by her answer.

The Court: No, I would rather we proceed in the orderly way.

Q Have you a pretty good memory of faces of persons you saw on that day at police headquarters?

Mr. McGeehan: I want to ask the question, your Honor, for the purpose of testing the memory of the witness and recollecting faces.

The Court: That is as to the people in the line-up.

Mr. McGeehan: It is leading to the question that goes outside as well I will say frankly.

The Court: No.

Q This took place the third week in October, didn't it? When you went to headquarters? A Yes, sir.

Q Can you remember or not the people and faces you saw there on that day?

Mr. Fisch: I object to that, if the Court please, unless it is with reference to the line-up itself.

Mr. McGeehan: I think it is proper cross examination, your Honor, if she says she can remember now a face back in July, I ought to be allowed to find out if she can remember a face a shorter time ago than that, on cross examination.

The Court: I will allow that on that basis.

Witness: Why, yes, sir.

Q Can you remember seeing the boy who was on the stand yesterday outside of the door at the time he went inside to look over the line-up?

Mr. Fisch: I make no objection.

Q Do you remember the question? A No, will you please repeat it again?

Q (Question read as follows:. "Can you remember seeing the boy who was on the stand yesterday outside of the door at the time you went inside to look over the line-up." A He was not there.

Q He was not there then? A No.

Q Now, at the time you went in there, how long were you waiting before you went in? A Two hours.

Q So you had a good chance to see who was there? A If they went in that particular room I did.



Q Were you in one room? A I was.

Q Not waiting in the hall at police headquarters? A No, I was not in the hall.

Q How many other people were in that room with you? A About five.

Q Did you see whether there were people in other rooms? A I could not see. The door was closed.

Q Well, what you mean is that you are sure that that boy was not in the room where you were? A I know he was not.

Q Now, do you feel, Miss Hanley, considering the circumstances under which you saw the face of one of the men while you were watching all that happened on that day in the short interval of time that it happened in, that you could get a very good recollection of the features of the face of the man you saw? A I do.

Q You think you could? A I do.

Q Do you consider yourself very capable of remembering faces?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Have you ever tested your ability to remember faces?

Mr. Fisch: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

Q Have you ever in any one way trained yourself to remember faces?

Mr. Fisch: I object.

The Court: This girl is not testifying as an expert on memory.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q How was the man dressed that you saw there in the car?

The Court: In the car?

Mr. McGeehan: Yes, sir, the man she saw in the car. He is the man she has testified to, as regard to a man in the car.

Mr. Fisch: I object. The witness has already, in response to Mr. McGeehan's question, said, as I recall the testimony, that she did not pay any attention to the clothing.

The Court: I will allow him to ask her.

Q (Question read.). A I do not remember. I looked only at his face.

Q You do not remember how he was dressed because you say you looked only at his face? A Yes.

Q Now, didn't you tell us that you saw him outside of and between the two cars before he went into that automobile at all? A Well, the



color of his clothes would not impress me as much as his face.

Q Well, the reason for it, then, is that that did not impress you, but not because you looked at his face?

Mr. Fisch: I object. That is argumentative.

The Court: That is argumentative.

Q The reason you did not remember the color of his clothes is because your memory failed you on that point, isn't that so? A Well, if I had set out to notice his clothes, too, I could have done that, but I didn't. I looked only at his face.

Q Well, you got a good look at his clothes? A I did.

Q And you had a good look at the clothes of the other three men between the two cars? A I did.

Q Can you tell us the color of any of their clothes? A Some was dark and one in particular was light.

Q Some were dark and one in particular was light? A Yes.

Q That you remember pretty well? A Yes.

Q And you do not remember whether the man you saw in the car was the one with a dark suit or a light suit? A No.

Q And you do not remember whether the two men that you saw going after the bag that you say Duff had in the car were light suits or dark suits, or which, do you? A I do not remember well enough to say just which one had a dark suit on and which one didn't. I know that there was different colored suits there, but who wore them, I don't know.

*Betty M. Hanley, cross.*

Q You do not remember the build of any of the people there? A Yes.

Q Of course, you have seen the build of the defendant Barone in the line-up? A Yes.

Q This man whose face you picked out? A Yes.

Q And you know what his build is now? A Yes.

Q Now, the other men that you saw between the cars, what do you think their build was? A I knew that one was tall, and rather stout.

Q Tall and stout? A Yes.

Q Is he a light complexioned man? A Yes.

Q One man was tall and stout?

Mr. Fisch: I object to that, rather stout.

The Court: Rather stout.

Mr. McGeehan: All right, tall and rather stout, and light complexioned.

Q I show you Exhibit S. 16 and ask you whether the man with the No. 1 over him looks like a man you saw there? A I cannot say, because I don't remember the features.

Q Would you say the build of the man you saw was something like that man under No. 1? A No, he is not rather stout.

Q Is that man that you see here tall? A He is.

Q The man you saw, was he as tall as he is? A He was.

Q About how tall would you say, was he very noticeably tall? A Well, he was over average.

Q Stout? A Rather stout.

Q Stouter than this man in this picture under No. 1? A Yes, sir.



*Betty M. Hanley, re-direct.*

Q He was a very large man, is that right? A Yes, sir.

Q And he was one of the men who was out of the car and in between the two cars? A Yes, sir.

Q And your memory of those details is pretty good, is it? A It is.

*Re-direct examination* by Mr. Bigelow.

Q During your examination, after you had described how Barone looked up at you and pointed the pistol at you, Mr. McGeehan asked you if you saw any one else look up and point a pistol at you and you replied, "No, but some one said"—and then he interrupted. Were you going to tell something that someone said at that time or that someone said here in court or at some other place? A No, at that time they were speaking very loudly, in fact we could hear some things that they had said.

Q And where did this voice come from? A It came from between the two cars.

Q And what was it that you heard said then? A It referred to shooting, someone else, I don't know who, but I think it referred to us, I don't know.

Q I was wondering why you hesitated, is it because the words used were profane or anything of that sort? A No, they were not profane, no, sir.

Q You don't recall the exact words? A No, not the exact words.

Q As near as you can recall, what was said? A "Pull your head in or I will shoot."

*Betty M. Hanley, re-cross.*

The Court: That is, you say, another voice, some one other than Barone said that?

Witness: Yes, sir.

Q Now, about this line-up and what your impression was as to the arrest of the men, whether the right men had been captured, was your impression when you went to that line-up any different from when you had gone to previous line-ups? A No, sir.

Q Look at this young man, do you recall seeing him at the time of this line-up Tuesday at police headquarters? A Well, there was a young boy there in the room but I did not pay any particular attention to him.

(The young man indicated is Clifford Luther.)

*Re-cross examination* by Mr. McGeehan.

Q Was he there for two hours with you, a boy, whoever the boy was, was he there for two hours with you? A Yes, sir.

Q And a nice little boy who looked something like this boy, would you say? A He did, about the same build.

Q And you would be talking with him during that same time, would you not? A No, I did not.

Q In full view of you for two hours, was he? A No, sir.

Q Well, in one room with you for two hours? A He was in the same room but he sat in a different position.

Q You could not recognize him, could you? A I was not looking at him closely enough.



*Ellis S. Oliver, direct.*

Q You looked at him longer and oftener than anyone that took part in that hold-up, didn't you? A No, sir.

Q You did not? A No.

Q No. A No.

Q How big was this room you were waiting in? A The room was rather large.

Q About how big? A Twenty by twenty or ten by ten or fifteen by fifteen, just roughly, not exactly.

Q Was the room any bigger than from where in back of the Judge sits out to here and around including the jury box? A No, no bigger than that.

Q You were in a room with the boy and five other people about two hours, that is all that was there, isn't it? A That's all.

Q And you cannot tell whether this was the boy or not? A I just glanced at him, I did not pay any particular attention to him.

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ELLIS S. OLIVER, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Mr. Oliver, where do you live? A 242 Sixth avenue.

Q What is your business? A I have a number of garages in Newark.

Q And where are those garages? A Mt. Pleasant avenue.

Q At what address? A 273 to 281.

Q Did you have them on July 19 of this year? A Yes.

Q Where are those with reference to the Reid plant on Mt. Pleasant avenue? A They are about 50 or 60 feet above the garage, north.

Q That is, the Reid garage on the west side of the street? A Yes.

Q And your garages are north of them? A 125 feet.

Q And also on the west side of the street? A Yes.

Q Were you anywhere near your garages on the morning of July 19? A Yes.

Q Did anything happen that attracted your attention along about ten o'clock that morning? A I was below the garages, in front of the horse-shoeing shop there. It is the next 25 foot lot to our property.

Q On the sidewalk? A Yes.

Q Tell what happened? A I heard three or four shots and there was a wagon on the sidewalk, or between the curb and sidewalk, part of the sidewalk, and an automobile in the street, and I heard the shots and I walked out in the street, and just as I walked out in the middle of the street, there was a big touring car—limousine went by, it was a dark blue or a green car and it came pretty close to me. I do not know whether the man tried to run me down, but he kind of slackened up, and in the back of this car I saw a face smiling.

Q And this car was going in which direction? A North.

Q And this was just shortly after you heard the sound of shots? A Yes.

Q And in which direction did the shots come from? A Down the street, toward Clay street.

Q And you say you saw a face outlined in this window? A Yes.

Q And the man smiled at you? A Yes.

Q Do you see that man here in court? A Yes.



Q Will you step down, please, and put your hand on him?

Mr. Bigelow: Indicating.

Mr. McGeehan: The defendant Joseph Juliano.

Q Did you notice the license number, by the way, of this car? A Why, I looked up the street as the car went by. It scared me and I looked and glanced and it looked to me that there were two plates on the car—I am satisfied there were two plates, one plate hanging over the other, and one extended out.

Q So as to conceal or almost conceal the other? A Almost conceal the other.

Q Did you notice the color of the plate that was almost hidden? A Why, it looked to me like a yellow plate.

Q And did you notice the number on the outer one? A No.

*Cross examination* by Mr. McGeehan.

Q How fast was that car going past you? A Well, I do not know how fast it was going, but they kind of slackened up when they come to me, the driver slackened up.

Q How many miles an hour did you say to the police it was going when you were first questioned about it?

Mr. Fisch: I object.

Mr. McGeehan: Withdrawn.

Q How fast was it going? A I don't know.

Q Fifty miles an hour? A I don't know.

Q Sixty miles an hour? A I don't think it was going sixty. It might have been going fifteen.

Q But do you think it might have been going fifty when you saw it? A I do not know myself.

Q Was it going fast? A It was going at a pretty good gait. It slackened up just as it got to me.

Q I am coming to that, but when you first saw it? A I did not see it until I got out in the street and it went by me, like that.

Q When you first saw it, no matter when that was, was it going fast? A It was not going real fast. It picked up momentum after it left me.

Q It slackened up as it came toward you? A Yes, sir. I did not see him coming toward me. As it went by me.

Q When you first saw it, then it was coming toward you? A It came right at me. The front of the car came right at me and I looked up. I was startled. I didn't know what happened, or anything about it.

Q And you heard shots? A Yes.

Q And you were just on the sidewalk? A I was on the sidewalk.

Q Did you go out into the street immediately? A I walked out, yes.

Q Immediately? A Right away.

Q And you could not see without going into the street because you said there was a wagon standing there, is that right? A A wagon and an automobile.

Q And by the time you got into the street this auto nearly hit you? A Well, it was too close to be healthy.

Q Then, it must have almost hit you? A Yes, sir.



Q Now, how many feet do you think you walked from the time you first heard the shots to the time you first got out into the street? A The sidewalk is about fifteen feet wide, and I was in the center of the sidewalk and walked to the center of the street which is about thirty or thirty-five feet wide—that would be about around 23 feet.

Q As soon as you heard the shots you started to walk? A Yes, sir.

Q And you had been standing on the sidewalk all the time? A No, I walked down the street from the upper end.

Q Were you walking when you heard the first shot? A No, I stopped.

Q How long had you been stopped when you heard the first shot? A Just a few seconds.

Q Talking to someone? A No, sir.

Q Looking at someone? A No, sir, nothing in particular.

Q What were you doing, standing there at the sidewalk? A Why, I generally do it every day.

Q I want to know what you were doing that day, I want to know whether you stopped to look at someone or talked to someone? A No, I was walking down the street.

Q Just taking a stroll? A Yes, sir.

Q And you were standing still when you heard the first shot? A Yes, sir.

Q How many shots did you hear altogether? A Two or three—three or four shots.

Q Then later some more? A No, I corrected myself and then I said three or four.

Q And you immediately went out to the center of the street? A Yes, sir.

Q And you judge that to be—was it the center you got to or not? A It had to be be-

cause there was an automobile in the street and a wagon on the sidewalk, so I had to go past them, very close to it.

Q So you had to go at least as far as the center of the street? A Yes, sir.

Q And it was somewhere around the center of the street that you got to when you got a pretty close shave at being struck, is that right? A Yes, sir.

Q And the number of feet you travelled is how many? A About 23 feet.

Q You did it pretty fast, I suppose? A No, I didn't know what happened.

Q You just walked about how I am walking now to look down the street? A No, I don't think I did.

Q Not as fast as that? A No, my legs are not as long as yours.

Q Suppose I try to take shorter steps, tell me about how you walked, did you walk about like this out to the center of the street? A I should imagine I did.

Q Then by the time you covered that 22 feet— A I said 23.

Q And in that length of time the Pierce-Arrow was almost striking you, is that right? A Yes, that is correct.

Q It must have been going more than 60 miles an hour, wasn't it?

Mr. Fisch: I object to that as argumentative.

The Court: Overruled.

A I did not say how many miles it was going.

Q It was going pretty fast, wasn't it? A I can only tell it was moving.



Q I know that it was moving? A Yes, sir.

Q Do you drive a car? A Twenty-two years.

Q And you have watched speedometers many times? A You cannot watch a speedometer much nowadays.

Q I know you cannot, but your speed, even nowadays, how many miles an hour you are going when you drive a car, isn't that right? A Oh, once in awhile, yes.

Q And you know the difference between fifteen miles an hour and fifty miles an hour, don't you? A I think I do, yes, I know when I am going in a car, I can come pretty near telling.

Q Now, when you see a car coming along you know the difference between whether it is going fifteen miles an hour or whether is is going fifty miles an hour, don't you? A I absolutely do not.

Q You mean to say when you see a car coming along the street you cannot say whether it is going fifty or fifteen miles an hour is that right? A No, I cannot, and I don't think there is a man living who can do it.

Q Well, do you think that a car going fifteen miles an hour, would appear to be possibly going fifteen miles an hour? A Do you want me to say that I know that it is going fifteen miles an hour?

Q I don't want you to say anything in particular, except to answer the questions? A I don't know how fast any automobile goes along the street at any time.

Q And you know what fifty miles an hour is when you are behind a wheel or riding in a car, don't you? A I think I rode that way once.

Q And that once must have made quite an impression on you? A That was plenty, yes, sir.

Q So that you do know, even from having ridden that way once that it is a fair rate of speed, don't you? A Yes.

Q Now, you have ridden many times at fifteen miles an hour? A I judge I have.

Q And you know that fifteen miles an hour is a slow rate of speed, don't you? A Yes.

Q Now, you do not mean to tell us, knowing that fifty is very fast and fifteen is very slow, that you cannot tell the difference between those two speeds? A If I was in the car, I might know, but just seeing a car go by, I cannot qualify it.

The Court: Are you familiar with the location of the east side of Mt. Pleasant avenue?

Witness: I have been around there for about thirty-five years.

The Court: Now, can you tell us the distance in feet from the steps leading down from the Reid plant known as the office building, to the point where you stepped out of the street?

Witness: Why, I should judge about 250 feet.

Q This plant is beyond what shows on the map, on the top map? A No.

Q Is it within the map? A No.

Q Well, then it is beyond it? A Yes.

Q Is it upon the map shown as Exhibit S. 2—do you know whether it is that blue building? A I stood right in front of that blue building.

Q And that is what number? A That is number 283.



Q Well, now, 283 to 317 is about sixteen or seventeen numbers, isn't it? A You figured it out there, the numbers are all mixed on that street. You cannot tell much by the numbers.

Q Are the numbers mixed at all between 317 and 283? A I know they are mixed on the east side of the street.

Q I mean on the west. A I don't know anything about that.

Q Do you know whether there are sixteen different numbers or seventeen different numbers between 283 and 317? A I do not.

Q Do you know just what the distance is from the Reid office down to your place? A No, I do not know the number of feet. I judge about 250. Do you mean from the point I stood?

Q Well, you stood, you said, at 283. A Yes.

Q Now, it is approximately forty-three inches, this being a fifteen inch rule, approximately forty-three inches from the Reid building on the map, the office building, to the blue marked place which, being forty-three inches on the map, would be about 430 feet on the street. Do you think maybe your estimate of the distance may be incorrect? A It might be.

Q Now, do you think it is something over 400 feet? A I would not say, no, because this map here on the end does not show the frame and cement block building on the map. That should be closer this way.

Q You think the map is wrong? A No, but that is the end of the Reid garage there.

Q Well, your place is beyond the end of the Reid garage? A Yes, but I was not in front of my place.

Q You were at 283? A Yes.

Q And that is over 17 doors away, and that would be around 400 feet, wouldn't it? A I don't know how many feet.

Q Well, you would not say that you were not 400 feet or more away? A I will say I was in front of 283 Mt. Pleasant avenue.

Q And you cannot judge the distance to the Reid place? A Not by the number of feet.

Q How many feet do you think it is? A I said about 250 feet.

Q When you saw this car first it scared you? A Yes.

Q Did it almost hit you? A It startled me, it didn't scare me.

Q Did you run? A I didn't.

Q Did you jump? A I kind of drew back.

Q How close did it come to hitting you? A Pretty close.

The Court: Well, can you give us some length?

The Witness: I should imagine about a foot.

Q The front of it nearly hit you? A I run kind of into the car; the front of the car was by me when I came out on the street.

Q Then the front of it did not nearly hit you? A No.

Q You nearly hit the side of it? A Yes.

Q What part of the side of it? A About the center of the tonneau.

Q Now, up to the time you came up to within a foot of striking the center of the tonneau, did you strike the car at all? A No.

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

Q You were looking down towards where the shots came from? A I was looking out in the



street, I told you, my view was obscured by the automobile and the wagon in the street.

Q So, you could not see down toward the Reid place? A I had to get out in the middle of the street to see it.

Q And because you could not see and on account of the wagons you were going down to look to your right, to the street? A And this automobile came there right in front of me when I got to the center of the street.

Q I say because you could not see down because of the wagon and the automobile you were going out towards the center of the street, you looked down that street, is that right? A Yes, sir.

Q To see what those shots were? A Yes, sir.

Q So that your attention and your view and your eyes were focused down the street towards the Reid plant? A Just for an instant until this car came up in front of me.

Q As you were going out to where you were nearly hit you were looking toward your right? A It was all a matter of seconds, it wasn't seconds, it was fractions, it was so quick.

Q But when you heard the shots and you walked out with short steps like this (indicating) and you were going out to look down that street, weren't you? A Yes, sir.

Q And you had your head turned toward that street, didn't you? A I wouldn't say whether I did or not.

Q Were you looking down toward the ground? A I was looking straight ahead.

Q You were looking straight ahead this way (indicating) and intending to look about face this way when you got out there? A Yes, sir.

Q You could get a view then from there to the middle of the street, couldn't you? A Absolutely not, I could not get a view from any part of that street.

Q You could not get a view until you got to the middle of the street, could you? A No, sir.

Q Then this car came by? A No, sir.

Q Well, you could not see it ten feet away from you? A No, sir.

Q And you did not see it thirty feet away from you? A I did not see it until it was right in front of me.

Q You did not see it at any time between you and the Reid place and then when you were a foot away from it it almost struck you? A It looked as though it came right out of the ground at me.

Q Well, it must have been going pretty fast? A Yes, it was.

Q It was there and it was gone? A No, sir, it slackened up.

Q It slackened up as it passed you? A It looked as if he put his foot on the brake, the driver, I don't know whether he wanted to hit me or to save me, I don't know.

Q You almost hit the car, didn't you? A I did.

Q Well, you almost hit the car, didn't you as you came out? A I didn't see the driver at all.

Q I mean you almost hit the car as you came out, the side? A I think I would if I had gone a foot further.

Q And you were startled and stopped, did you? A I saw this face in the window.

Q And by that time the car had passed you? A Not until I got a good look at the fellow I was looking at.



Q And it went by? A Yes, sir.

Q That is the only look you got at him? A That was enough.

Q It was enough for you to be sure, is that right? A Absolutely.

Q You did not follow all along with your eyes, did you? A I turned around and looked at it and had something in mind at the same time.

Q When you turned around and had gotten to within a foot of it you could not see through the side window of that car, could you? A It is like a big open car when the windows are open, there are only two little frames there.

Q You mean you could see through that side window after it went by you, could you? A After it got by me, no, sir, but when it was in front of me, yes.

Q And before that you did not expect it to be in front of you? A If I did not expect it to be there I would not have been there.

Q But when you saw that face you did not expect any car to be there? A I did not.

Q So that when it did appear you were not even prepared for it, were you? A No, sir.

Q You got one single, instantaneous glance at that car and the face, is that right? A Yes, sir.

Q Now weren't you thinking more, when you saw that all, to keep from the wheels or the body of that car or from being hurt? A I am used to ducking them.

Q You are used to ducking them? A Yes, sir.

Q You are used to having cars arise out of the ground a foot in front of you, and almost hit them with your side, are you? A Well, there are quite a few running around that way.

Q It happens often to you, then, does it? A Not often to me.

Q Well, you said you had a lot of experience? A I am no young fellow.

Q Well, you have lived to be pretty old, considering these close scratches. You did not before come near hitting a car, coming along that way, did you? A No, I like to see them.

Q Now, listen. At that time, if you did not see it coming toward you, you were shocked, weren't you, by that thing whizzing past you? A Why, for the instant, yes. I looked up.

Q And in that moment of shock you could not see whether there were one or thirty faces at the window, could you? A I only saw one face in the car.

Q What kind of a car was it? A It was a Pierce-Arrow.

Q You could see that? A Yes, a large car, either dark green or dark blue.

Q How many doors on the side? A Two doors.

Q And were the handles on the doors inside or outside? A How do I know that, I didn't look at the handles.

Q Well, how did you notice the two doors if you were noticing the faces at that instant? A The driver's seat, the rumble seat that rises up for a seven passenger car in front of the rear seat—

Q You saw all this? A This man sat on the rumble seat, that is in the center of the car, that is how I came to see him.

Q On the the rumble seat? A I call it a rumble seat, maybe I am wrong.

Q We know what you mean, you mean the extra seat. A The seat that is usually in the center.



Q Now, I think we all know the seat you mean, you mean not that on the back seat of the car at all, but the extra seat? A In the rear of the tonneau.

Q They are folded up, is that right? A Yes, sir.

Q And you could determine that he was sitting in that seat? Is that right? A Yes.

Q And facing out the door, was he, or towards the front? A Facing three-quarters, he had his hand down here like this (indicating).

Q Well, was he sitting on the left or right-hand side of that car? A He was on the left-hand side of the car toward me.

Q On the left-hand side? A Going north.

Q Sitting three-quarters of the way around? A Three-quarters faced, practically turned around like this (indicating) and he had his hand down like this, his arm was down.

Q Which arm was down? A His right arm.

Q That was away from him or towards you? A The arm that was away from me, I noticed was down like this.

Q The arm that was away from you you noticed was down at his side? A No, it looked as if he was resting it on his lap.

Q Then did you notice where his other hand was at the time A No, sir, I did not.

Q And he was on the left-hand side of the car? A Yes, sir, going north.

Q But you couldn't determine where his arm was at that instant? A I noticed his arm hanging there.

Q And he was sitting three-quarters of the way in the center of the car or three-quarters out of the car? A He (indicating) this would

be the center here and he was facing around like this.

Q Facing that way? A Facing me across the street, yes, sir.

Q And in that position you can tell where his right arm was? A Why not?

Q Well, if you saw that to the left-hand side of the car as it whizzed by, and the left side of him was toward you, could you really notice whether his arm was raised, his left arm? A I saw his arm hanging, the whole thing.

Q You imagine that you saw all this, don't you? A No, I don't imagine anything.

Q Upon that basis alone you have come down, and put your hand on a man and sworn that he was in that car, is that right? A I am here because I was sent for to come, it is not my choice.

Q And that is the only basis that you have sworn upon that this defendant was in that car, isn't that right? A They came after me. I didn't go after them.

The Court: What basis did you mean?

Mr. McGeehan: I will reframe it.

Q Upon whatever view you got in the manner you have described to this jury, you base, and upon that only, is it not true, your coming here and swearing that that defendant was in that car that day? A I picked that man out as being in the car, yes.

Q You do not think you could be mistaken? A Well, I do not think I could be, but there are mistakes made lots of times.

Q Yes, now, do you think you are making a—do you think you may be mistaken in this



identification, realizing this is a trial on a charge of murder? A I realize that fact.

Q Do you think you may be mistaken? A Not in this case.

Q You don't think so? A No.

Q And you do not think you may be? A I am sorry. I am not mistaken.

Q All right. You may, but you don't think you are? A No.

Q Have you ever seen this man since that time up to today? A Yes.

Q Were you before a line-up? A I was before several line-ups.

Q Did you ever pick him out of any line-ups? A Yes.

Q When was that? A Why, I think it was on a Tuesday.

Q On a Tuesday? A Yes.

Q You were not at the line-up on a Sunday? A No.

Q And you had seen the picture in the Call that Sunday? A Yes.

Q What? A Yes.

Q And looked at the picture pretty carefully? A Yes.

Q And was it upon that picture—I show you a picture. I ask you if that is the picture you saw in the Newark Sunday Call? A I do not know anything about it. If you show me the paper I can tell you, maybe.

Q Will you take a look at this picture and tell us whether that is the picture you saw in the Newark Sunday Call? A I will qualify my answer. I was away over the week end, at my sister's place, and the Sunday Call had been lying out in the grass, and it was all wet when

it was brought in and the pictures were all blurred and I cannot tell anything about it.

Q You saw a picture in the Call? A I did and I put a magnifying glass on it, too.

Q You even used a magnifying glass on it? You were that much interested in looking at the faces? A Yes.

Q And you put a magnifying glass on it and looked at those faces on that picture? A I do not know whether that is the Sunday Call or what it is.

Q Well, that same picture. A Well—

Q One minute. We won't gain time by your interrupting. Does that look like the picture you saw in the Sunday Call? A The picture I saw was all blurred up.

Q When you used the magnifying glass on this, could you see the faces on it? A Not very plain.

Q Well, did you buy another Sunday Call to see the pictures you were so interested in? A I wasn't interested enough for that. I did not think I would be called after the pictures were in the paper.

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

Q You were interested, weren't you, when you took your magnifying glass to look at those pictures? A I was interested because I had known Mr. Condit for twenty years.

Mr. McGeehan: I ask again that that be stricken out.

The Court: Just answer yes or no.



Q Now, sir, will you just answer questions so we won't waste any unnecessary time? And, being interested, didn't you look at another Call that day? A No.

Q Now, were you home Monday? A I think I came home Monday morning.

Q Now, did you look at the Evening News Monday night? A I wouldn't swear to that.

Q Did you see some pictures in the News again that you were interested in for any reason? A I wouldn't say sure for the News.

Q Before you went down—I ask you to answer this, you saw pictures of these men before you went down to headquarters? A The Sunday Call, that is what I saw.

Q Did you see them in the Ledger? A I don't take the Ledger, not on Sunday.

Q I mean, did you see them in Monday's Ledger or Tuesday's Ledger? A I wouldn't say I did.

Q Now, you did see the pictures and had a pretty good look at them before you ever went down to that line-up? A I wouldn't say I saw the News or Ledger pictures. I am positive I saw the Sunday Call pictures.

Q Now, in that Sunday Call picture, did you recognize just the face of a man that you had seen going by you in that car or not? A I could not tell you by the picture. I told you it was all wet and blurred.

Q So with the use of the magnifying glass and your eyes, you could not identify in that picture the man you picked out here? A No, sir.

Q And when you went to the line-up at headquarters, did you carry in your mind the face that appeared upon the picture that you saw?

A I could not carry it, because I could not make them out.

Q You put glasses on when you looked at this picture? A Yes.

Q Do your eyes require glasses when you read? A Only when reading.

Q Only when reading? A Yes.

Q Can you read from where you are—just stand up. Can you read from there what it says here? A I cannot see that. This line here, scale so much to the inch. I can read that. I can read this, Newark, New Jersey, Gas Station. October something—October 26th or 24, 1926. I can see that. The other lines I cannot see.

Q Are you far sighted? A I can see a great distance.

Q And the closer things are to you the more you need glasses? A I am not near sighted, either. That is just the reason.

Q Did you have your glasses on when that car went a few feet past you that day? A I never wear them in the street.

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HELEN GILLARD, sworn in behalf of the State.

*Direct examination* by Mr. Bigelow.

Q Where do you live? A 276 Forrest street, Arlington.

Q Were you employed by the Reid Ice Cream Company on the 19th day of July of this year? A Yes, I was.

Q And is their office on the east side of Mt. Pleasant avenue? A Yes.



Q What was your position, what did you do for them? A Well, I am a clerk in the office.

Q Did you have a desk there? A I did.

Q Where was your desk in their office? A My desk was the first window nearest Clay street.

Q In the front or rear of the building? A Front.

Q Were you at your desk about ten o'clock that morning? A Yes.

Q Did something occur to attract your attention? A Yes.

Q What was it? A I heard a noise that sounded first to me like the back-fire.

Q And did it sound to you as coming from where? A From the street.

Q Did you look out? A Yes, I did.

Q What did you see? A Well, the first thing I saw was a man in the back of a large green touring car—what I took to be a touring car—and at the same time I saw Mr. Condit's hands go to his head, and he fell on his back and another man grabbed a little satchel he had, and threw it in the back of the green car.

Q Did you make any exclamation? A Yes.

Q What did you say? A I first said they got the money and then I said they got Mr. Condit.

Q And then you continued looking out of the window? A Yes.

Q Will you tell the jury what else you saw? A Well, there was not much else that happened, except that I watched the man in the back of the car, and he had a gun in his hand, and as I did, Mr. McKenna came running from the back to see what was the matter, and I heard him holler, "Get a gun," and he came running back to the

window, and I heard four shots and just as he fired, this car pulled away.

Q And he continued at your window until the car pulled away? A Yes, and Miss Hanley came running to the same window I was at.

Q Now, do you see anybody in this room that you saw down there on the street that day? A Yes, I do.

Q You are lame, are you not? A Yes.

Q Will you point out from where you are? A He is the fourth man from the door.

Q Has he a suit of what color? A Gray suit.

Q Who do you begin to count from? A The officer and then the gentleman in civilian clothes and then an officer and then the next fellow.

Q Do you see an officer with his arms folded? A Yes, the one next to him on this side.

Q Is that the man? A Yes.

Mr. Bigelow: Indicating Capozzi.

Q Did you get a good look at Capozzi? A I did.

Q And his face? A Yes, sir.

Q Where was he at that time? A Well, he was in the back of the car, and he appeared to me to be in the middle.

Q You got the impression of some one each side of him, is that what you mean, about his being in the middle? A No, sir, he was in the car by himself.

Q Do you know whether he had been on the street or not?

Mr. McGeehan: Objected to as leading.

The Court: Overruled.



A No, sir, I do not know whether he was on the street or not.

*Cross examination* by Mr. McGeehan.

Q He was seated in the middle of the rear seat, then, is that right? A No, he did not appear to be seated, he appeared to be getting up or just sitting down. He was a little off the middle of the seat.

Q But in the middle of the seat? A About the middle.

Q That is when you saw him, is that right, A Yes, sir.

Q And were any other men on that seat with him then? A No, sir, there were not.

Q Were any other men visible to you or not, around either of the cars? A Yes, I saw one between the Chevrolet and the green car, the man that I saw had the yellow bag in his hand.

Q And you did not see that man's face at all? A Oh, no, not his face.

Q Now, you were at the window just immediately after you heard the first shot that sounded like a back-fire to you? A Yes, sir, I have a bench against the wall and my back is against the window all the time and all I had to do was to turn my head.

Q So, you looked down immediately? A Yes, after I heard the shot.

Q And you continued to look up to that time until that car drove away, didn't you? A Yes, sir.

Q At no time did you see the man whom you pointed out outside of that car, did you? A No, I did not.

Q Now, you did see other persons outside of that car, is that right? A Yes, I did.

Q And their faces were not observed by you at all? A No, sir, they were not.

Q How many other people did you see outside of the car? A One.

Q Just one? A Yes, just one.

Q You only saw one person between the cars then, in all the time that this was happening? A Yes, sir.

Q And how was that man dressed? A Why, I only got a back view of him, he appeared to have a dark suit on and a straw hat.

Q Did he seem light complexioned or dark complexioned to you? A That I could not say, because I could not see from the face part.

Q Now, when was it that you saw this man that you say is the defendant, Capozzi? A When I looked out of the window he was the first one I saw and I continued to look at him after I hollered, as they say.

Q You did not see him again after that? A I did when I turned around again he was still sitting at the back of the car.

Q Still sitting in the middle of the back of the car? A Yes, sir.

Q Now, Miss Gillard, did you ever talk to Mr. Duff about this case? A Well, not very often; we discussed it, but not in detail.

Q A few times? A Yes, sir.

Q And did you see some pictures in the newspapers before you went down to a line-up? A I saw a picture in the Sunday Call on Sunday morning, yes, sir.

Q Did you go down on a Sunday or a Tuesday? A A Sunday.

Q Was the young man, Mr. Duff, down there then? A Not when I got there, no, he came after me.



Q Did you talk to him about the pictures you saw in the Sunday Call? A I did not.

Q Did he have a copy of the paper with him, do you know? A Not that I know of, no, sir.

Q Did you see anything that he had? A No, I did not.

Q Did he tell you that a slim man had been picked out by him, did he go into the line-up before you or did he go in first? A He went in first.

Q And then when he came out was he talking to you? A No, sir, he was not.

Q He was in the same room with you? A Not in the same room, no, sir.

Q How long after he went in did you go in? A I think I was the second person after him. I would not say for sure.

Q Didn't you talk to him after he came out? A He did not come into the same room I was in, no, sir.

Q He did not come back to the room that you were in? A No, sir.

Q What color suit did this man have on? A Dark suit, white shirt, dark tie and a straw hat.

Q What kind of a suit? A A dark suit.

Q And a dark tie? A Yes, sir.

Q A white shirt? A Yes, sir.

Q And a straw hat? A Yes, sir.

Q All these details you were able to see? A From his shoulders up, yes, sir.

Q Looking down on a man you can tell what what color shirt he had on, could you? A Yes, I could, I could see this part in here (indicating) where his vest is cut away.

Q You could see that when he was sitting on the seat of an automobile and you were up in the second floor window?

The Court: Mr. McGeehan, she did not say he was seated down.

Q Did I understand you to say before that he was on the center of the rear seat of the automobile and that you could not tell whether he was sitting or leaning over? A No, I could not tell whether he had just been sitting down or had just gotten up, but he was not on the seat when I saw him.

Q Well, where was he, he wasn't on the inside of the car, was he? A Yes, I know, but he was raised off the seat like either getting up or sitting down.

Q He was either getting up or sitting down, but he was in the center of the back seat? A Yes, sir.

Q Not on the right side or on the left? A Well, he was more to the right, though.

Q On what you have called in your testimony the center of it? A Yes, sir.

Q That's right? A Yes.

Q Don't you know, Miss Gillard, that you cannot see into that Pierce-Arrow car from the window where you were? A No, sir, I do not, because I saw the man in the back.

Q Don't you know that you would be looking down at the roof of that car? A No, sir, I would not, the car was far enough in the street for me to see that.

Q Why, the car was within a couple of feet of the edge of the sidewalk, wasn't it? A I know, but there is quite a wide sidewalk there and Mr. Condit' car was between that and the green car.

Q Yes, the Chevrolet was between that—you don't mean between the sidewalk and the green



car, but between that and the porch? A The Chevrolet was about six feet from the porch.

Q And the Chevrolet was on the sidewalk, wasn't it? A Partly.

Q Don't you think it was all on the sidewalk? A No, sir, I do not.

Q Do you think the two right wheels were partly off? A Yes, I do, it was about one foot on the sidewalk and the rest in the street.

Q You think, then, that it was not in the position at all, then, that is shown upon this picture S. 11, is that right? A No, sir, I do not, I think it was just opposite to that, that is, these wheels were on the street and these wheels were as they are on the sidewalk, as they have these wheels on the road.

Q By that you mean that most of the Chevrolet was out in the street and not on the sidewalk, is that right? A Yes, sir.

Q That is your recollection of it? A Yes, sir.

Q Is that right? A Yes, sir.

Q Now, where did you look through the door of that car to see the man who was sitting or getting up or getting down on the seat? A No, sir, over the radiator of Mr. Condit's car.

Q No, but what did you look into, through the door of the Pierce-Arrow? A No, sir. The car appeared to me to be a touring car.

Q Then it was open on the side? A It appeared to me to be that way, yes, sir.

Q It was a touring car with the top up? A Well, the back two pieces were taken out, like that (indicating) like out of the California top.

Q Then, it did not look like a sedan at all? A No, sir.

Q It did not look like a car with heavy lengthwise doors, did it? A No, sir.

Q It did not look like a car that had a window in the rear? A No, sir.

Q And you think you looked under the top of an open touring car, is that right? A Yes, sir.

Q That is as you remember? A Yes, sir.

Q So, you think you saw, what you say you saw, between the top and the tonneau of the car? A Yes, sir.

Q Now, it wasn't a car with the top down, was it, it wasn't an open car? A No, sir.

Q And looking down at the angle that you looked from you could not look into that car and see anyone that was on the center of the rear seat and see his face, could you? A I could, yes, sir, I could see his face.

Q Well, that man wasn't looking up at any time, was he? A Yes, he was, when I hollered he looked up.

Q You think that is the man that looked up? A Yes, sir, I do.

Q And was he still looking up at the time the other girl came to the window with you? A That I can't say.

Q Well, you looked, didn't you, you saw, did you see any other man looking up at all? A I didn't notice.

Q You kept looking down there, didn't you? A I did, yes, sir.

Q Then, you did not see that man looking up from out the rear window, did you (indicating the defendant Barone)? A I did not, no, sir.

Q One man, you said, you saw out of the car only? A Yes, sir.

Q That is from the beginning to the end? A Yes, sir.



Q You did not see whether anyone at all was at the right rear window of that car, did you? A No, sir, I did not.

Q You did not see anyone, you do not remember seeing anyone sitting there at all, do you, at the right rear window of the car? A I do not, no, sir.

Q You do not, then, remember anyone sitting there and pointing a gun up at the windows, do you? A The man I saw had a gun in his hand, but I would not say he pointed it at me.

Q The man that you saw had a gun in his hand? A Yes, sir.

Q The one that was seated in the center of the car? A Yes, sir.

Q But you did not see him point it anywhere? A No, sir.

Q Did you see any of the shots fired? A I did not.

Q This all happened quickly and suddenly, didn't it? A Well, yes.

Q You were quite excited? A Not when I looked, no, sir, I did not know what had happened.

Q Did you see Mr. Condit fall? A I did, yes, sir.

Q That made you excited, didn't it? A I looked in back of the car first and saw a man grab the bag, and saw Mr. Condit fall all at once, and then I was excited, yes.

Q Where did the man grab the bag from? A That I can't say, it appeared to be from Mr. Condit's hand when I saw it, but he had it in his hand.

Q That was the man between the cars? A Yes, sir.

Q That was the man that had the bag? A Yes, sir.

Q He seemed to grab that from Mr. Condit? A Yes, it was one bag.

Q You have given us your best recollection of what happened there that day, haven't you? A Yes, sir.

Q And you were the first to the window there, weren't you? A I was.

Q And you were there until they were gone, the men who were connected with this hold-up, is that right? A Yes.

Q And you have given us all you remember of it, haven't you? A Yes, sir.

Q Now, do you think that your memory on what occurred may be mistaken? A No, sir, I do not.

Q You don't think maybe two men were between two cars? A No, sir, I do not.

Q You don't think that maybe that three men were between the two cars? A Not to my recollection, no.

Q You don't think that some men ran around the front or rear of the Chevrolet, do you? A I did not see them, no, sir.

Q You don't think that a man who looks like Barone had his head out of the window looking up at you? A I did not see him, no, sir.

Q You don't think that a man that looks like the man you identified was out between the two cars, do you? A I did not see him, no, sir.

Q Do you admit that you may be mistaken about everyone of the things that I have asked you? A I may have, yes, sir.

Q Now, will you say you may be also mistaken about the identity of the man whom you



say you saw in that Pierce-Arrow car? A No, sir.

Q You won't admit that? A No, sir.

Q You could be wrong about other things, is that true? A Yes, sir.

Q But you will not say that you could be wrong about that? A No, because I was not watching what happened before, I was watching the man in back of the car.

Q You were not watching what was happening before? A In regard to the men running around to the front of the car, no, sir.

Q Well, you would have seen it if it had happened? A I don't know, the front of the car was partly up the other way.

Q You say the front of the car was partly up the other way? A Yes, that happened up by Mr. Condit's car.

Q It was hidden by Mr. Condit's car? A Yes.

Q And that is why you could not see anything that might have happened in front? A Yes.

Q Now, you were at the first window, weren't you? A Yes.

Q Was your head sticking out of the window? A Yes.

Q Were you able from that point to see in either direction up or down Mt. Pleasant avenue? A Down, but not up.

Q Why not up? A I didn't look up.

Q Well, you could look up? A I could, I suppose.

Q And looking down from that second floor window, your vision would cover a greater space than the length of a Chevrolet, wouldn't it? A Yes.

Q Right now, looking at me, you can see the gentlemen of the jury and persons sitting over there, can't you? A Yes.

Q And the further away you get the bigger vision you eyes take in, isn't that right? A Yes.

Q Now, if the things that I mentioned in my previous questions happened, you would have seen them, wouldn't you? A Well, no, because I would have had to look at an angle to the front of the car. Mr. Condit's car was right in front of their car.

Q Look at this picture. You were in this window? A Yes.

Q Leaning out? A Yes.

Q The Pierce-Arrow was right here? A Yes.

Q You mean to say you would have to look at any greater angle to see there than you would here? A Yes, I think so.

Q You do not think your vision would have included all that? A No.

Q Well, it included the man who was in the car? A Well, that was further back.

Q It included the men you saw between the cars? A Yes.

Q You could see one man on foot? A Yes.

Q And he was between the cars, wasn't he? A Yes.

Q And if two men had been there, you could have seen them, couldn't you? A I think so, yes.

Q And you had no better or worse view than the other girl who stood alongside of you? A Well, I don't know what she saw, but I don't think I did.

Q Now, do you remember something that you said at the time you picked out the defendant Capozzi in the line-up at headquarters?

Mr. Fisch: I object.

The Court: Sustain the objection.



Q At the time that you picked Capozzi out at headquarters did you say he is the man that shot Duff? A No, sir, I didn't.

Q You did not say that? A No.

Q Did Mr. Duff—young Mr. Duff—tell you that he had picked out a slim man who he said was seated in the car?

Mr. Fisch: I object to that unless the time and place are fixed.

Mr. McGeehan: At that time.

Mr. Fisch: What time?

Mr. McGeehan: At the time of the line-up.

A Well, he went in first and I did not see him until after I was through identifying the men.

Q You did not talk with him at all? A No.

Q In his talk to you before you went down there, did he say he had seen a man sitting inside of a Pierce-Arrow who may have shot him?

Mr. Fisch: I object.

The Court: I will allow that.

A Yes, he did.

Q So you knew Mr. Duff said he could pick out a man who sat inside of that Pierce-Arrow? A He did not say he could pick him out. He said he thought the man who sat in the back of the car shot him.

Q And did he say he saw a man sitting in the back of the car? A Yes.

Q And did you talk with Mr. Duff about what that man looked like? A No.

Q Is it from what you and Mr. Duff said to each other in your talks in the office that you think you saw this defendant sitting inside of

that Pierce-Arrow where Mr. Duff said he thought he saw him? A No.

Q No one else said they thought they saw that man sitting in the Pierce-Arrow to your knowledge? A No.

*Re-direct examination* by Mr. Fisch.

Q Did you have talks with Mr. Duff about this? A No, I didn't; not in the office.

Q You are still with the Reid Ice Cream Company? A I am.

Q Has Mr. Duff worked at the Reid Ice Cream Company since the day of this hold-up? A Yes, for about two weeks.

Q This past two weeks? A Yes.

Q And you did not speak to him about it then? A No.

*Re-cross examination* by Mr. McGeehan.

Q It was before you made the identification that you had these talks? A Yes, off and on.

Adjourned until Monday, November 22, 1926, at 10 o'clock A. M.

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SEVENTH DAY.

Monday, November 22, 1926.

Appearances as before stated.

Trial continued.

JOSEPH GUILIANO, sworn in behalf of the State.

*Direct examination* by Mr. Fisch.

Q You are a county detective connected with the prosecutor's office? A I am.

Q And did you participate in the arrest of Boudreau? A I did.

Q When and where? A October 14, at 2:30, at South Orange avenue and 10th street; about there.

Q And who was with him at the time? A His common law wife and a man by the name of Bielke.

Q And you took them all into custody? A We did.

Q And where did you take them? A To police headquarters.

Q In Newark? A Yes.

Q And did you question him? A I did.

Q And upon your questioning him—during the course of your questioning him, did you first question him with regard to the Reid case?

Mr. McGeehan: I object to that as leading.

The Court: Do not lead this witness.

Q What did you question him about first? A We questioned him about two hold-ups that just had occurred in Essex County.

Q Yes. A The Reid stick-up and the Ward stick-up.

Q And at that time, what did he say? A He said he knew nothing about them.

Q And then did you continue to question him? A The following night, October 15th, myself and Captain Brex, Lieutenant Conlon and Sergeant Bell and Detective Kenny questioned him at 8:30 that evening until about 11:30. During that time, up until about 11:00 o'clock, he said he knew nothing about the Reid stick-up. At about 11:00 o'clock he said, "I wasn't in it," but I know one of the men that was in it, because he admitted to me that he was the man that was on the running board and pulled the gun and told the girls at the Reid factory to pull their heads in or he would fill them up with lead. I asked him the man's name and he said it was Little Joe Juliano, and we told him we did not believe him, and that he was in it also, and about 11:30 he said, "I want to speak to you alone"—speaking to me. Captain Brex ordered his men out of the room, and he walked out himself, and then he walked in as Boudreau started to tell the story that Little Joe Juliano got him to go into the stick-up of that Reid plant, and Little Joe Juliano got Big Joe Juliano and Capozzi and Barone—

The Court: You are not objecting?

Mr. McGeehan: No.

A (Continuing.) Then I told Boudreau to sit down and I asked for some statement blanks, and I started to take his statement. At that time, after I started to take his statement, Luke Conlon walked in with seven or eight photographs, among them a photograph of the three defendants, Capozzi, Barone and Big Joe was there, and there were two others, Joe Juliano's, and two or three other photographs—I do not remember who the other two or three were, and among them he picked out Big Joe from the pictures, Capozzi and Barone.



Q Now, up to the time that he, Boudreau, mentioned to you the names of any of these defendants, had you or anyone else in your presence mentioned to him the names of any of these defendants? A Not in my presence.

Q Had you up to that time any knowledge as to the participants in the Reid hold-up? A I did not.

Q I show you three photographs and ask you if these are three of the photographs which were shown to Boudreau at the time after he had mentioned their names and at the time you were writing the statement.

Mr. McGeehan: I object to that. I do not think he said they were shown after he mentioned their names.

Mr. Fisch: I understood the testimony so to be.

Mr. McGeehan: He said Luke Conlon walked in with seven or eight pictures, three of which were photographs of the defendants.

Mr. Fisch: I withdraw that question.

Q Up to the time that Conlon walked in with the pictures, who, if anyone, had mentioned the names of any of these defendants? A Boudreau.

Q Had anyone mentioned them to him before that? A Not in my presence.

Q Now, I ask you this question. I show you three photographs and ask you if these are the

photographs that were among the photographs that Conlon brought in after Boudreau had mentioned the names of these defendants? A They are.

Q I show you three photographs and ask you if those are the photographs which were among the photographs which Mr. Conlon brought in after Boudreau had mentioned the names of these defendants? A They are.

Q And what was done with these photographs? A After they were identified, Boudreau wrote his name on each of them.

Q And is that his signature on each photograph? A It is.

Mr. Fisch: I offer the photographs in evidence.

Mr. McGeehan: I would have no objection to the photographs themselves, but I do object to their being put in evidence with the various notations upon them that appear on each of the pictures.

The Court: Can that be separated?

Mr. Fisch: I don't know whether they can be or not, the notations are on the back of the photograph.

The Court: That would not be evidential, unless you can cover it up. Of course, that cannot go in evidence.

Mr. Fisch: I suppose the notations could be covered up with a paper on the back of them?

Mr. McGeehan: I suppose they could in some manner, but until they are in that condition I would not—

Mr. Fisch: I ask that they be marked for identification and if the State feels it is important enough, the State will have the information on the back of them covered over before they are offered. I ask that they be marked as one exhibit.



(Three photographs marked S. 18 for identification.)

Q Was the photograph of Little Joe Juliano shown to Boudreau? A Captain Brex told me there was none of Little Joe Juliano at headquarters.

Q So that there was none shown to him? A No, sir.

Q Now, before Boudreau confessed to you, was he put in a line-up?

Mr. McGeehan: I object to your leading the witness. All of this testimony could be objected to if I wanted to. I do not want to, but I do object to leading the witness in it.

Mr. Fisch: I cannot see that that is leading, if your Honor please.

The Court: No, this relates to a definite thing.

Mr. McGeehan: This particular question, no, but I ask the prosecutor to try not to lead.

A He was.

Q And how many men were in that line-up? A He was put in several line-ups. I don't know what line-up you were referring to.

Q Well, was he put in any line-up before he confessed at which he was identified by any one? A Yes, sir.

*Joseph Guiliano, cross.*

Q And you were present at that time, were you? A I was.

Q And by whom was he identified? A By Mr. Seigel.

Q He was identified by Mr. Seigel, the druggist who testified in this case? A Yes, sir.

Q And that was before Boudreau confessed to you concerning the case? A Yes, it was.

*Cross examination* by Mr. McGeehan.

Q So, Lieutenant, before Boudreau made a statement involving himself or any one else he had been identified or picked out by a witness, hadn't he? A Yes, sir.

Q And that man was Seigel, is that right? A Yes, sir.

Q And in addition to his being confronted by the identification of Seigel, did Mr. Bielke, who was arrested with him, make a statement as to something Boudreau had said to him in the presence of some girls? A Before the statement was taken, yes, sir.

Q So that at the time that Boudreau had made his first declaration that he was in this, or that any one that he knew was in it, Bielke had told you or the police officers that he had heard Boudreau say that he was in the Reid hold-up, is that right? A Yes, sir.

Q And in addition to that some one had picked him out of the line-up, is that right? A Yes, sir.

Q Now, upon those two facts, before that was done, he said nothing, is that right? A That's right.

Q And then did any one say to him, "Boudreau, you will go to the electric chair, you can



*Joseph Guiliano, cross.*

see we have the goods on you in the Reid hold-up"? A Not in my presence.

Q Do you know whether it was said out of your presence? A I don't know, sir, I won't say it was, and I won't say it was not.

Q You say he was picked out of a line-up by Seigel? A Yes, sir.

Q Who else was in that line-up, lieutenant? A I am not a lieutenant, I am only a common ordinary detective.

Q All right. A Police officers, Bielke and Boudreau.

Q So that Bielke was in that line-up the same time as Boudreau was, is that right? A Yes, sir.

Q Did Seigel pick Bielke out? A He put his hand on him.

Q And who was Seigel asked to pick out when he went in front of that line-up? A He was told to go and put his hand on anybody he recognized as being in the Reid hold-up.

Q And after being told that, did he put his hand on Bielke, as well as Boudreau? A He put his hand on Boudreau and put his hand on Bielke and told everyone in the room to take their hats off.

Q Was it after he put his hand on them that he told them to take their hats off? A Yes.

Q Now, lieutenant, those pictures which were not introduced in evidence, but which were shown to you, are pictures of the defendants, Joseph Juliano, Capozzi and Barone, are they? A Yes.

Q Those photographs—when did you first see them? A Capozzi's picture was the first time I saw it that night.

Q The first time you saw it was what night? A The night of October 15th.

Q That is the night that you say they were shown to Boudreau? A Yes.

Q How long before that had you seen Big Joe Juliano's and Barone's picture? A Big Joe's I saw in the gallery the day of the stick-up, July 19th.

Q Was that in the gallery on the day of July 19th at headquarters? A I don't know whether that particular picture was, but one similar to that was.

Q Did you work on this case for the prosecutor's office from the beginning, or just when the arrests were made? A From the beginning.

Q Did you interview any of the persons who testified here for the State and sought to identify the defendants?

Mr. Fisch: I object to that as not being cross examination.

The Court: Sustain the objection.

Q On what occasion did you see Big Joe Juliano's picture before the date that you have just mentioned? A When some of the witnesses were looking at the gallery.

Q What witnesses were they? A I just can't recall.

Q Was Joseph Juliano or Barone or Capozzi arrested and charged with this at any time shortly after July 19th? A No, sir.

Q Did any of the witnesses for the State at any time pick out their pictures when shown to them shortly after the occurrence of the crime?

Mr. Fisch: I object.

The Court: Sustain the objection.

Mr. McGeehan: Your Honor will hear me?



The Court: It is too general.

Mr. McGeehan: All right. I will go over each one.

Q Was Philip Seigel shown the pictures of the defendants or any of them—

Mr. Fisch: I object.

Mr. McGeehan: I have not finished the question.

A There was no particular picture shown—

Mr. Fisch: Just a minute.

Q —right after this hold-up had occurred?

Mr. Fisch: I object.

The Court: Sustain the objection. It is really in the nature of an impeachment of Seigel.

Mr. McGeehan: I want to identify what pictures he looked at as going to the question of the probability of the proofs, entered by the State and the credibility of that witness.

The Court: I will not let you do it on this cross examination. You may do it on your case. I will not limit you at all to any testimony.

Mr. McGeehan: The only way we can develop the facts the State has put in evidence—I did not object to any of the policemen including conversations with this man Boudreau and others not in the presence of the defendants, and I did not object because I wanted the whole wide truth to come out

in this case, and I think we ought not, after they have given proof of such matters—

The Court: I will rule it is not proper cross examination and you have the privilege to contradict anybody you see fit when your defense is on.

Mr. McGeehan: I do not know that we can get witnesses on our defense, but we can find out on our cross examination.

The Court: I rule it is not proper. You may call Detective Giuliano in your defense.

Mr. McGeehan: I should not be put in a position of having to put on as witnesses persons whose testimony we do not know what it will be and be bound by it.

The Court: You do not know now.

Mr. McGeehan: I know, but we are not bound now by this witness in the cross examination, but we are on direct examination.

The Court: My ruling stands.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Seigel was arrested on what day, you say?

The Court: Not Seigel.

Q Boudreau? A October 14th.



Q What day was it that the defendants were arrested? A I believe on the 16th.

Q At police headquarters, I think you testified on direct examination, that they were questioned about the Reid and Ward hold-ups, both Bielke and Boudreau. A Yes, sir.

Q As a matter of fact, weren't they arrested in connection with a Scotch Plains hold-up? A No, sir.

Mr. Fisch: I object to that, if your Honor please.

Q Were they questioned about a hold-up at Scotch Plains? A Not until some time later when Bielke admitted that he was in on that job.

Q Did he admit that he was in on it with Boudreau? A Yes, sir.

Q Or a man named Brownie, Rugerio or Rogers? A No, sir.

Q Did he admit who the other persons were with him on the Scotch Plains hold-up? A Yes, sir.

Q Who were they? A Boudreau, Bielke, Marone and Charlie—I just can't recall his last name, he is on the photograph there.

Mr. Bigelow: Malizzia?

Witness: Charlie Malizzia.

Q Were they questioned with regard to a hold-up on Chancellor avenue, Newark? A No, sir.

Q Were they later questioned about a hold-up on Chancellor avenue, Newark? A Not in my presence.

Q Was he asked whether he and Brownie and Ruggiero or Rogers and a man named George

committed that hold-up on Chancellor avenue, Newark? A I don't know anything about it, this was the first I have heard of it.

Q Was he questioned about the robbery of an Atlantic and Pacific store in Nutley? A No, sir, not in my presence.

Q Was he asked whether he and Brownie and George held up that store in Nutley? A If it was, it was not done in my presence.

Q Was he asked about the hold-up by those same persons of a drug store in Nutley? A No, sir, not in my presence.

Q Now, how long was he questioned—what did he say at first when he was questioned? A He said he knew nothing about the Reid or the Ward stick-up.

Q And was Bielke questioned with him or separately from him? A Separately.

Q Did Bielke, previously to the time that you began to question them, state anything in regard to what Boudreau had said to him in the presence of girls in regard to the stick-up? A Not until the night of the 15th, the next night.

Q That was the night of the 15th? A Yes, sir.

Q And as I understand you then, Bielke stated that Boudreau had admitted in the presence of some girls that he was on the Reid job? A That is what Bielke told us.

Q Now, when you told Boudreau about that did he admit that he participated in the Reid hold-up? A No, he said that Bielke had misunderstood him, that he knew one of the men who had participated in the Reid stick-up, because this person had told him that.

Q And he said he knew one of the men? A Yes, sir.



Q And that man was who? A Little Joe Juliano.

Q That is what Bielke told you Boudreau had said? A No.

Q That is what Boudreau in reply to your assertion as to what Bielke told you? A Yes, sir.

Q Now, at the time you questioned him, meaning Boudreau what was the next change he made in his statement, was there a further change in that position? A There was not.

Q How long did he stick to the statement that he did not have anything to do with the Reid hold-up but that he knew one of the persons whom he heard did? A About a half an hour.

Q During that time how many detectives were making an effort to have him tell what, if anything, what he knew about the Reid stick-up? A Captain Brex and myself were doing all the questioning.

Q What questions did you ask this man for one-half hour? A We asked him if he was in the Reid stick-up, where he was on that particular day in question with regard to the Reid stick-up, whether or not he had told Bielke that he was in the stick-up.

Q And he denied it, didn't he? A He didn't deny that he spoke about the Reid stick-up, but he denied that he was there, that he was in it.

Q He denied that he was in it? A Yes.

Q Wasn't he told by you or Captain Brex—wasn't he argued with and talked with and told why he should tell what he might know about them? A Well, he was told that he was in it, and he was told that he might as well tell the truth, because he was identified.

Q Was he told that some time after Seigel had identified him? A Yes.

Q What argument was used; wasn't he told it would benefit him if he were to tell what he knew about the Reid hold-up? A No.

Q Wasn't he told, in words to this effect, Boudreau, we have got the goods on you, we know you were there; Bielke says you admitted it; Seigel picked you out; you will go to the electric chair unless you tell us he was in it with you; wasn't that, in effect, said to this man? A We told him the first part, he might as well tell the truth, because you have been identified as the man driving the car, and Bielke has told us you were in on it, but we did not mention anything about the electric chair.

Q But didn't you add to that, you might save yourself or help yourself by giving evidence against any one of those with you? A No, not in my presence.

Q You do not know what took place out of your presence? A Certainly not; if I wasn't there I don't know what happened.

Q Now, when the name Joe Juliano, young Joe Juliano, was mentioned by Boudreau, you and Captain Brex knew who young Joe Juliano was? A I didn't know. I don't know whether Captain Brex knew.

Q You did not know young Joe Juliano? A Well, I know at least ten Joe Julianos.

Q But you do not know who was referred to just as young Joe Juliano; is that right? A No, I didn't.

Q Now, you know and knew Big Joe Juliano? A I sure did.

Q And do you know whether he was being referred to my him when he said, "I told Bielke



that I didn't have anything to do with it, but I knew one man who did," or words to that effect? A I knew it was not Joe, because from the description he gave.

Q He gave a description? A Yes.

Q And what description did he give? A About a fellow about five feet six and thin.

Q And you knew Joe Juliano wasn't thin; I mean this Joe Juliano; you knew he was not thin? A Yes.

Q Well, did you inquire who that Joe Juliano was? A Yes. He told us he had a Hudson brougham car and he believed he came—

Mr. Kavanagh: I object.

The Court: Do you object to any conversation?

Mr. Kavanagh: Yes. I object at this time.

The Court: Very well, it will be sustained. That is, affecting Joe Juliano not said in his presence. Sustain the objection.

Mr. McGeehan: I am not speaking of any conversation at all.

The Court: I have got to figure it in its entirety. It relates to a conversation had with Boudreau and relating to this man in particular, and, therefore, it was made not in his presence.

Mr. McGeehan: All right.

Q Now, when Joe Juliano was mentioned and described to you, Boudreau told you that Joe Juliano was a cousin of Big Joe Juliano, or distant relation, didn't he? A When he mentioned the three men's names?

Q Well, then, or at any time? A Yes, he said that Little Joe had told him that Big Joe was his cousin.

Mr. Kavanagh: I object to that—hearsay.

Q Now, as a matter of fact, didn't Captain Brex or you—were any other officers questioning him then? A No, sir.

Q Was he being passed from one group to another? A No, sir.

Q Didn't Captain Brex or you say to Boudreau, when you heard the name of young Joe Juliano mentioned, "We know who was with you, it was Big Joe Juliano, a cousin of young Joe Juliano, and the two men who he goes around with, Ruff and Barone?" Didn't you suggest that to him? A No, sir, that is the last thing in the world that I would do.

Q Didn't you pretend that you, having the evidence of Seigel, who identified Boudreau and having the testimony of Beilke, do a lot of more things and bluffed him and say, "You knew whose these other men were who were in it," and if he would say they were in it he could save his life? A No, sir, that is not so.

Q Was he questioned out of your presence? A I wasn't there all the time. Boudreau was at police headquarters and I went home.

Q He has testified that he was questioned for five or six hours and that he was connected with the Reid hold-up. How much of that time did you participate in the questioning of him? A I think I was there all the time, probably maybe two or three or five minutes I might have been out of the room, but I think I was there a great deal of the time, if not all the time.



Q Well, did you question him for five or six hours altogether? A I questioned him, not myself, but Captain Brex and myself questioned him for about three hours and a half, from about 8:00 o'clock to about 11:30 and then he made a statement at that time.

Q He made several different statements verbally, then, didn't he? A He made different statements verbally; yes, sir.

Q And he made several statements in writing, didn't he? A Yes—several? Two.

Q Two in writing? Several different ones verbally; is that right? A I don't understand what you mean by "different."

Q I should not have used that word, perhaps. He made several different statements verbally—different from each other? A Yes, sir.

Q And he made two lengthy statements in writing, didn't he? A Yes, sir.

Q How long about was the first statement in writing that was taken from Boudreau? A Do you mean how many pages or how long it took to take it?

Q I mean how many pages? A I don't know; seven or eight, I guess.

Q And that was a complete statement? A It was.

Q And about when was the first complete statement taken? A October 15th at 11:30.

Q Well, as soon as he confessed that he was connected with the Reid hold-up wasn't his statement put in writing? A 11:30 I started to take his statement; it was about 11:35.

Q And about how many hours after he was arrested or how long altogether? A About thirty-three hours; something like that.

Q And how long after 11:00 o'clock or so on Friday night was the second statement, written

statement prepared? A The second statement was taken after I received orders from the prosecutor on October 18th.

Q Was October 18th several days after or several— A (Interrupting.) I think it was on the Monday following the arrest.

Q And then he made another statement? A Yes, sir.

Q Also a written statement? A Yes, sir.

Q What was the reason for the making of the second statement? A The only reason, I had received orders from the prosecutor to take another statement from him.

Q And during all this time intervening between the first and second statement was he at police headquarters all of the time? A He was.

Q Has he been at police headquarters since he was arrested right up to the present time? A As far as I know.

Q Now, these pictures that were shown by you, you say they were shown to Boudreau after he had mentioned the names of the three defendants whom I represent here? A Yes, sir.

Q Are you sure they were not shown to him during the thirty hours preceding the times that he mentioned their names, as part of the questioning of him? A As far as I know they were not shown to him.

Q As far as you know they were not? A Not in my presence, at least.

Q So you don't know whether they were or were not shown to him and their names given to Boudreau before he ever said these men were in the hold-up with him? A Not in my presence.

Q Now, were you present at the time that Boudreau was in the 'phone booth with a mask on? A I wasn't there.



Q You were not there? A No, I didn't know anything about it.

Q You did not participate, then, in the line-up where Boudreau appeared to pick out these four defendants? A I wasn't there.

Q You were not present at all, then, when he went into the 'phone booth; is that right? A No, I wasn't.

Q He was given a look at the pictures before the line-up that took place that you know of, was he not, then? A The only time I know he looked at the pictures was the time I took the statement. I do not know whether he looked at pictures after that or not.

Q Now, at the time those pictures were shown to him, they contained the names of these defendants, did they not? A I believe on the back of them, yes.

Q Did he know the names of the three defendants himself? A He told me that Little Joe had told him that the names of the three men that were with them in the stick-up was Big Joe Juliano's cousin, Chris Barone, and Kid Ruff. He did not know Ruff's right name.

Q Did he know the names himself? A I can't say that.

Q Or did he describe men that you and Captain Brex took to be these defendants? A No, sir; he did not describe. He just told us the names, and Captain Brex ordered some pictures brought in and he handed them to Boudreau.

Q He gave these names? A Yes, he said he got those names from Little Joe.

Q Now, did Seigel identify any more than six people in this hold-up?

Mr. Fisch: I object to that as not being cross examination.

The Court: I will allow it.

Q Do you remember the question? A He had made no identifications up to the time that he come in to identify Boudreau.

Q Well, did he identify, not before, then, but after then, did he identify any more than six people that he said he saw in that hold-up? A He made no other identification.

Mr. Fisch: That is, in your presence?

Witness: In my presence, yes.

Q Was he ever taken to police headquarters in New York City to look at any man? A Yes.

Q Seigel was? A To identify some people?

Q In New York City at police headquarters? A I know I had asked Detective Kenny to take witnesses to New York, but I don't know whether Seigel went there himself or not.

Q When was it that that trip to New York was taken? A Why, Detective Kenny made two or three trips to New York with different witnesses. I do not know what witnesses went over.

Q When were those times? A I cannot just exactly say, but it was after the Reid stick-up and before September—some time in the summer.

Q Well, now, you were working on this case all the time? A Yes.

Q Can you tell us what persons under arrest or in custody in police headquarters in New York, any of the witnesses in this case were taken to look at? A Yes, a fellow by the name of Powers, who was in the Reid stick-up in New York, and I believe another one, who was later killed, McKenna, who was in the Reid stick-up also.



The Court: That was in New York?

Witness: Yes, sir, they were charged with the Reid stick-up in New York.

Q Now, were all the witnesses in this case taken over? A I don't know. I did not go over. I went the first time and there were two or three witnesses with us at that time.

Q Now, at any time did you know of anyone that was looked at by the witnesses in the Reid case here? A Yes.

Q I mean in New York. A No, not in New York. I do not know of anybody else myself personally.

Q Is there a man who is charged with murder in New York City who was looked at in headquarters in New York— A The only two men I know of are the two men I mentioned, McKenna and Powers, who were charged with the hold-up and murder in the Reid plant in New York City.

Q Then you do not know whether at headquarters in New York any identification of any man was made there or not? A I was not there. I cannot say.

Q Do you remember that boy that was on the stand in this case? A Yes, sir.

Q Have you seen his father ever? A I believe I saw his father here in the prosecutor's office the other day.

Q Do you know whether his father has curly hair or reddish hair or not? A No, sir, I cannot say. I did not see his hair.

Q Do you know whether that boy, with his father, was ever to a line-up at police headquarters to identify or seek to identify persons in such line-ups in this Reid case? A The boy came down there once, I think, to identify some—

to try to identify some people, in September, if I am not mistaken, or the latter part of August, but I don't believe he was with his father.

Q Do you know whether or not he was down there since the arrest of these defendants? A As far as I know I did not see him there.

Q You have never seen him there or taken him there? A I have not taken him there.

Q Do you know whether Mr. Kenny has taken him there? A I do not know.

Q Do you know of a man named Tony De Phillips? A Yes, I do.

Q Do you know a man named Pete Rogers? A I do.

Q Or Ruggerio? A I do.

Q Do you know a man named George, who is mentioned by Boudreau in his direct testimony? A I do not.

Q Do you know a man named Brownie, who was at the penitentiary? A I may and I may not know him; I don't know who you are referring to.

The Court: Is Brownie his right name, or is that an alias? What does the testimony show?

Mr. McGeehan: Brownie was the word that was used, if I recollect, in questioning Boudreau.

Mr. Bigelow: I think you used the name of O'Connell.

Mr. McGeehan: I am just told he used the name Arthur O'Connor, Brownie or O'Connor.

Q Do you know a man named Brownie also known as O'Connor? A I don't know that name; I may know him if I see him.



Q Do you know a man named Brownie who was arrested in connection with the Scotch Plains—the Chancellor avenue hold-up? A No, sir, I do not.

Q Was Tony DePhillips or Pete Rogers ever brought before any of the witnesses in this case?

Mr. Fisch: Objected to.

The Court: Sustained.

Q In the line-up where the defendants were pointed out by some of the witnesses was Tony DePhillips or Pete Rogers ever in such line-up? A No, sir.

Q Was Brownie? A Not as far as I know; I don't know who you mean by Brownie.

Q Was any man who was named George and who is tall and has light hair in any such line-up? A There were men in the line-ups with light hair but I do not say that is the George.

Q Do you know of a George—did you learn in your investigation of the Reid case of a George who went out West with Boudreau? A I know of a fellow named Bischoff, a fellow who gave the name of George Bischoff, I believe.

Q The name that you knew him by was Fisher? A I didn't know him. That was the name given to me by Boudreau.

Q Oh, is that the George who he said went out West with him? A Yes.

Q That is the man, I mean, that George. Was he ever arrested? A I don't know. I have never seen him. As far as I know he was never arrested.

Q As far as you know was he ever in a line-up before persons who saw the Reid hold-up? A No. I may add that he told us he was in New York and did not know where he was.

*Joseph Guiliano, cross.*

Q He is under indictment here? A I don't know.

Q Isn't he a fugitive from justice? A As far as I know; I don't know.

Q Boudreau said he did not know where he was? A Yes.

Q This Tony DePhillips and Pete Rogers, in your investigation, did you determine whether this Tony DePhillips was a man that had been paymaster for the Reid Company?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Do you know where Pete Rogers and Tony DePhillips hang out? A I have seen them. I do not know where they hang out.

Q Where? A I have seen them at the Firestone.

Q The Firestone A. C. is a hang out for dope fiends?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Those two men are dope fiends?

Mr. Fisch: I object.

The Court: Sustained.

Q What color hair has Bielke? A I believe it is light.

Q And is Bielke a tall man? A Yes, he is.

Q And he is up in the Essex County jail now? A As far as I know.

Q What is the appearance of this Tony DePhillips?



*Joseph Guiliano, cross.*

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Can you tell us whether this Pete Rogers resembles the defendant Capozzi in this case?

Mr. Fisch: I object.

The Court: I will allow that.

A I cannot say whether he does or not. He is about Capozzi's build and I believe he wears glasses now, as far as I know. I saw him with glasses on.

Q He is wearing dark glasses since this thing occurred? A Yes, he is about the same complexion. I would not say that he looks like him.

Q You say he is about the same size and complexion? A I think so; I may be mistaken.

*Cross examination* by Mr. Kavanagh.

Q Now, Mr. Guiliano, you say that you arrested Boudreau? A Yes.

Q Who was in company with you at the time when you arrested him? A Sergeant Luke Conlon and Detective Kenny and there were two or three others that came along in another car.

Q And you took them to police headquarters, I presume? A Yes.

Q And there you questioned them for some time? A I questioned him for a short time.

Q Well, how short a time? A Well, about half an hour or so.

Q And what did you question them about? A About the Reid stick-up, and the Ward stick-up.

Q And when you questioned them, about the Reid stick-up, he admitted not having any par-

ticipation in it? A He denied that he participated in it.

Q And he denied that he did not know a single thing about it? A That is right.

Q He denied that he knew anyone who had anything to do with that stick-up? A That is right.

Q Now, for how long a time did you question him at this time? A A half hour, about.

The Court: You mean he denied he knew anyone?

Mr. Kavanagh: Yes.

Witness: That he participated in the stick-up.

Q That is a fact, that the first time when you questioned him for a half hour regarding the Reid stick-up? A He said he knew nothing about it.

Q He denied that he knew nothing at all about it? A Yes.

Q That is true? A Yes.

Q What did you do after the first half hour, did you put him back in the cell? A We questioned him and I think Sergeant Conlon took him back upstairs in the cell.

Q And how long was he left upstairs by himself? A Until that evening about 8 o'clock, or half-past 7, for the line-up.

Q What time was it in the afternoon that you questioned him first? A Upon arrival at headquarters, I should say, about 3 o'clock, or a little after 3.

Q And the second time you questioned him was late in the afternoon? A After he had been identified by Mr. Seigel.



Q After he had been identified by Mr. Seigel? A Right.

Q Now, Mr. Guiliano, he said on the first occasion that he knew nothing whatsoever about the Reid stick-up, is that right? A That's right.

Q Didn't know anyone who had participated in it at all? A He told us he didn't know anything about it.

Q Now, when did he tell you, as you said a minute ago, that Little Joe Juliano had admitted to him that he had participated in the Reid stick-up? A The following evening, the following night.

Q The following night? A Yes, sir.

Q So that over a day and a half had intervened between the time that he denied any participation or any knowledge whatsoever of the stick-up, a whole day and a half had intervened until the following evening when he said that Juliano, Little Joe, had admitted to him that he had participated in this stick-up, is that right? A Yes, sir, that's right.

Q Did you ask him at that time why he denied having any knowledge of any of the participants in it? A Yes, I did.

Q What did he say to you? A He told me that Little Joe had told him not to repeat it to anybody.

Q And then you knew that he had lied the night before, is that right? A I knew that he had lied the night before when he said he did not know anything about it.

Q Did you question him as to why he had lied the night before? A I answered that question, I told you he said Little Joe told him not to repeat it.

Q Didn't he tell you the night before that he had absolutely no knowledge whatsoever? A He told us the night before he didn't know anything about it.

Q Now, Mr. Guiliano, did you arrest Little Joe Juliano? A I did not arrest any of the defendants.

Q Were you at police headquarters at any time after his arrest when he was questioned regarding the alleged story of Boudreau to you and the other officers? A I was not there when he was being questioned.

Q Were you there at any time when he was questioned after his arrest? A I may have been at police headquarters.

Q Well, anywhere? A I may have been, I don't know.

Q Well, do you remember whether you were? A I was not there when he was being questioned as far as I know.

Q Were you there when Boudreau was confronted with Little Joe Juliano in police headquarters in Captain Brex' office? A No, sir, I was not.

Q Were you there at any time when Boudreau was brought in before Little Joe Juliano, either in Captain Brex' room or any other room at Police Headquarters? A I was not.

*Re-cross examination* by Mr. McGeehan.

Q Were you there when the defendant Joseph Juliano, Capozzi, and Barone were brought into police headquarters? A I believe when some of them came in I was taking a statement inside.

Q Did you ever question them at the time they were brought in? A No, sir, I did not



question them at all, I did not question them at all.

Q Have you been present when others were questioning them? A No, sir, I was not there when they were questioning them.

*Re-direct examination* by Mr. Fisch.

Q Have you ever at any time ever heard of any Chancellor avenue stick-up that has been referred to by Mr. McGeehan? A No, sir.

The Court: I think he so testified.

Mr. Fisch: I thought he did.

Q Now, Mr. Guiliano, why weren't any of these other men, whom Mr. McGeehan mentioned in his cross examination, why weren't any of these men arrested and charged with this crime? A We had no information to pick them up on.

Q Now, when Boudreau finally confessed and mentioned Little Joe Juliano's name to you and you asked him why he did not tell you about Little Joe Juliano before that, you said that he at that time said that Little Joe Juliano said not to mention it? A Yes, sir.

Q What else, if anything, did he say at that time? A He said he was afraid, because Little Joe told him if he ever squealed and if he ever was arrested he couldn't knock him off, but somebody else would do it.

*Cross examination* by Mr. McGeehan.

Q You say you don't know anything about any Chancellor avenue hold-up; isn't it a fact that you know that this Brownie O'Connor pleaded guilty in this court to participating in a robbery

and pleaded guilty in his statement to the probation office, and was sentenced by this Court? A I don't know anything about it.

The Court: You mean this Court?

Mr. McGeehan: One of the Three Quarter Sessions Court.

Witness: If he did, it is something new to me, and I don't know anything about it.

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FRANK E. BREX, sworn in behalf of the State.

*Direct examination* by Mr. Fisch.

Q You are a member of the Newark Police Department? A Yes.

Q And have been for how many years? A Going on to twenty-three years.

Q And you are captain of detectives in charge of the detectives at police headquarters? A Yes.

Q Now, Captain, do you remember when the defendant—do you remember when Boudreau was arrested and brought to headquarters? A I learned of it about five or six hours afterwards.

Q And did you participate in questioning him? A I did.

Q With whom? A With Detective Giuliano from the prosecutor's office, and Detective Kenny and Sergeant Conlon.

Q And when you first questioned Boudreau about the Reid hold-up what did he say? A He denied it.

Q And at that time was a man by the name of Bielke also under arrest? A There was.

Q And did you question him? A I did.



Q And did you get some information from Bielke with regard to Boudreau? A I did.

Q And after you got that information, did you again question Boudreau? A I did.

Q And what did Boudreau then say? A He denied it.

Q At that time he denied it? A That was the night of the 14th.

Q That was on the 14th of October, was it? A Yes.

Q Subsequently was Boudreau placed in a line-up? A He was.

Q And how many men were in that line-up? A Probably ten—eight.

Q And did anybody identify him in that line-up? A They did.

Q Who? A A man by the name of Philip Seigel.

Q The man who testified in this case? A Yes.

Q Was Bielke in that line-up? A He was.

Q And what happened with regard to Bielke in regard to that identification? A You mean Seigel?

Q Yes. A Seigel walked along the line and identified Boudreau, who was about in the middle of the line, and Bielke was at the extreme right of the line, facing the line, as Seigel walked up to Bielke, he looked up at him and touched him and put his hand up and, simultaneously with putting his hand up, I saw Bielke removing his hat. I was probably fifteen or twenty feet to the rear of the hall at which this was being done.

Q Did Seigel say anything to Bielke at that time? A Not within my hearing.

Q You could not hear what he said? A No.

Q Did you see him say anything? A No. his back was turned to me, but I saw him point to his head and, at the same time with the pointing of his finger, I saw Bielke remove his hat.

Q After that, did you again question Boudreau? A I did.

Q What did he say then? A He denied it, but I confronted Boudreau with Bielke and a girl named Myrtle Foster.

Q Myrtle Foster was Boudreau's common law wife? A Yes.

Q The woman who was living with him? A Yes.

Q And then? A Then I told Boudreau what Myrtle had told me and I told him what Bielke had told me. He denied both statements, and then I confronted him with these two persons, Myrtle Foster and Bielke, and they repeated in the prisoner's presence—Boudreau's presence, a certain statement that Boudreau had made to Bielke and a certain statement made by Little Joe Juliano.

Mr. Kavanagh: I object.

The Court: Sustain the objection.

Q Well, they said something in Boudreau's presence? A Yes.

Q Both Myrtle Foster and Bielke? A Yes.

Q Then, after that, did you continue to question Boudreau about the Reid hold-up? A I did.

Q What did he then say? A He denied it, and Bielke kept on insisting that he made a certain statement.

Q Well, then, subsequent to that? A The next night I had a talk with him.

Q What is that? A The next night we had another talk with him.



Q That would be the 15th? A Yes, sir.

Q And at that time what did Boudreau say? A Why, he denied it at first. It was quite a lengthy talk, in which we all, at times, took part in, but primarily Joe Guiliano, the detective, and I done most of the talking, and I would talk perhaps twenty minutes, maybe half an hour, then Joe Guiliano would speak, and in turn Kenny and Luke Conlon would speak. That conversation to Boudreau consisted of a recital of the crime and so forth; the evidence we had against Boudreau in the shape of Bielke's statement, and his common law wife's statement, and towards the last, the conversation took place from between about half-past eight or eleven o'clock or half-past eleven, I did not make any note of the time—but I remember clearly it came right toward the end when I said something to him to this effect, I said, "Boudreau, the crime of Condit cries to the Heavens, Condit had a right to live, Condit had a right to engage—

Mr. McGeehan: Now, we don't want one of Captain Brex' famous speeches, do we, Mr. Fisch?

The Court: We would rather not have that.

Q What did Boudreau say after that? A Immediately after that he slept in his chair and he put his hands to his head in that manner (indicating), and pulled his hair and I said, "Perhaps you would want to talk to one of us alone," and I then told Kenny and Conlon to leave the room. Prior to that I told him who we were, and I told him he could select any one he wanted to talk to, so perhaps it would not em-

barrass him, and I told him either Joe Guiliano or I would stay in.

Q You told him who Detective Guiliano was? A I did, and he said—then I stepped out momentarily for a glass of water, and came back and Joe Guiliano was just finishing some sentence, and we both continued to talk and we talked for a few minutes and then he said, "I will tell you" and then he recited his participation in it and told us the names of the other people who were in it and the parts they played in it.

Q What names did he tell you?

Mr. Kavanagh: I object.

The Court: I sustain the objection, if made not in the presence of the defendants.

Q Did he give you some names? A Yes, sir.

Q And of the people who participated in the hold-up? A Yes, sir.

Q Now, up to the time that he mentioned those names did you or any one else in your presence ever mention those names to him? A Only one name was mentioned, that was the night before.

Q What name was that? A Little Joe Juliano.

Q How was that mentioned, and by whom? A As the result of Myrtle Foster's telling me.

Mr. Kavanagh: I object to that.

The Court: I will say this that anything which implicates any of these defendants, not made in their presence, is not binding on them.



Q How was that mentioned and by whom, how was the name of Little Joe Juliano mentioned and by whom?

Mr. Kavanagh: Are you questioning Captain Brex as to what he said or as to what somebody else said to him?

Mr. Fisch: The question is plain, if the Court please, "By whom was the name mentioned?"

Mr. Kavanagh: I object, if the Court please.

The Court: It is part of his story and I will admit it subject to the limitation that is not binding on the defendant.

A The name was mentioned to me by Myrtle Foster.

Q And was that the first time that Little Joe Juliano's name was mentioned in connection with this case? A The very first time.

Q And the first time that the names of any of these defendants were mentioned outside of Little Joe Juliano was when? A Boudreau had told us.

Q And up to that time no one had mentioned those names, but Boudreau, is that right? A I was entirely ignorant of what names he was going to mention, and there were no names suggested to him.

Q Now, were some photographs shown to Boudreau—I show you Ex. S. 1 for identification and ask you if these three photographs were among a number of photographs that were shown him? A Yes, sir.

Q What did he say, or what did he do when you showed him the photographs. What did he

do with regard to the photographs? A I believe Luke Conlon showed him the photographs after he mentioned the names and they were brought in, among them was six or eight other pictures and either Conlon or Kenny said, "who is this"? and he didn't know, and "Who is this"? "I don't know," "that is Chris. Barone," and there would be another pause on one, who he perhaps did not know, and then "Big Joe Juliano" and he said, "Ruff."

Q So that he told you who the photographs were of? A Yes.

Q These three photographs? A Yes.

Q And what did he do with the photographs themselves? A Detective Guiliano suggested that he mark them for identification by putting his name on them, which he did.

Q Before you showed him these photographs, had he mentioned the names of these defendants? A He did.

Q Had anybody mentioned the names of these defendants to him—

Mr. McGeehan: I object.

f Q —before these photographs were shown?

Mr. McGeehan: He was not there all the time this man was at police headquarters.

The Court: Of course, this is limited to what the Captain knows.

Mr. Fisch: You may answer the question.

The Court: So far as the Captain knows.

Mr. Fisch: Yes, I could not ask him anything beyond that.

Mr. McGeehan: Yes, you did. That is what I objected to.

(Question read.)



A Not the three and a half or four hours I was with him.

Q And up to the time that you had heard Boudreau mention the names of these defendants, had you had any intimation of the connection of these defendants with this case? A None whatsoever.

Q Now, after that, what was done with regard to these defendants? A We got them—we went out and got them.

Q You arrested them? A As the result of what Boudreau had told us.

Q Yes. A Police activities were started and about—probably twenty or thirty men went out in the field in different sections of the city with instructions to get certain mentioned persons, and probably about half-past-two or half-past three, in company with Detective Gannon, I believe, Detective Frank—

Mr. McGeehan: This is all hearsay.

The Court: Yes.

Q Well, were the four defendants, Big Joe Juliano, Little Joe Juliano, Kid Ruff, Capozzi and Chris Barone, were they brought to headquarters? A They were locked up, yes.

Q When were they arrested? What date? A Early morning, the first one about half-past two or half-past three the morning of October 16th, and I was informed the last one about one or two o'clock that afternoon.

Q Did you personally participate in the arrest of any of these defendants? A I did.

Q Which one? A Barone.

Q Now, after they were arrested and brought to headquarters, did Boudreau get an opportunity to see them? A He did.

Q Where? A Under my direction, in the business room, and in my office. There was two separate line-ups.

Q Now, in regard to the first look he got of them, will you describe that, please. A I had Boudreau put in the telephone booth with a mask on. Later on I directed that the four defendants in this case be brought down to the detective bureau. I was busy during the interval. When I went up to the detective bureau, I saw Boudreau in the telephone booth with a mask on and these four men were seated at the end of the aisle. I might describe—this aisle is perhaps six or eight feet wide, and on each side there was a row of individual desks, and at the end of this aisle is a telephone booth, perhaps three or four feet square. In the booth are six lights of glass. There was another panel of glass next to it—these glasses are about six inches wide. I saw Boudreau seated there, and I saw the four defendants seated in chairs at the end of the aisle, a distance of perhaps twelve or fifteen feet away, and as I come out I said, "Stand up, you fellows." They did. I said, "Get closer." They walked about four or five feet and I said, "Come closer yet," and they walked to a distance of probably four or five feet of this telephone booth. I said, "Look in there," and the four of them did, and, probably, after a half a minute, I gave instructions they were to walk to the window and, as they did, Boudreau was taken out, and, as the result of the conversation I had with Boudreau, after Boudreau was taken out, I told Boudreau, you are right. Now, it will necessary—I am going to hold a line-up up in my office, and I want you to put your hand on everyone of them, and I am going to ask you where you met them, and he said, "Well, Captain, I



don't like to do that," and I said, "Why," and he said, "I am afraid they might punch me in the stomach, I have ulcers of the stomach," and I said, "You will be protected," and I had a line-up to be caused in my office and Boudreau walked along that line. I think they were all separated. Barone, I think was next to Ruff. I stood close to Boudreau so that no physical harm could come to Boudreau, and, as he walked along, he put his hand on them, and named them. He backed up with me, and I said to Big Joe Juliano, "Do you know this fellow"? meaning Boudreau. He said, "His face looks familiar to me." He said, "I have seen him some place." I asked Barone, "Do you know this fellow"? He said, "I never seen him in my life." I asked Ruff, and he said yes, well, that is Bobby, he lives in the same house—and the ranks were broken—not immediately—I gave some instructions to take some statements. I saw them downstairs for a half an hour later with some detectives talking to them. I was talking later with Capozzi; I was handed a paper handed to me by Detective Morgenraw, and as a result of reading that, I walked over to Capozzi and I said, "I understand—

Mr. McGeehan: I am familiar with the Captain's attitude on the stand, and ask that questions and answers be put to him so I can object.

Q Did you have a talk with Capozzi? A I did.

Q What did you say to him and what did he say to you?

Mr. McGeehan: I object unless he refers to the crime that this defendant is charged

with. If the Captain will limit himself to a statement of any statements made by this defendant there is no objection.

The Court: That will be the limitation.

Witness: I asked him where he was on the morning of July 19th and July 10th this year.

Q What did he say? A He thought he was down the Shrewsbury Country Club, but he wasn't sure. I asked him why he did not want to sign that statement, I said, I understand you don't want to sign it, do you want to sign it now"? He said, "No." I said, "Why, what was read to you here, is that the truth"? And he said, "Yes." I said "Why do you hesitate to sign it," and I said, "Perhaps you or your lawyer would want to change the statement later on," and he said, "I don't want to sign it," and he would not sign it.

Q Captain, will you tell the Court and jury how it came about that Boudreau was concealed in a telephone booth with a mask? A That was a further verification of his statement about these four defendants.

The Court: No, no.

Mr. McGeehan: That will be stricken out?

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

Q How did it come to be done? A How did it come to be done?

Q Yes, why was he concealed in the telephone booth with the mask on? A To see as to whether—a test by name—to see as to whether he could tell me after he came out who he had looked at.



Q Give you the names? A Yes, sir.

Q Why did you have a mask on him? A I did not want them at that time to know who was looking upon them, because I wanted to get the benefit of when he had identified them as to how long they had known him. If they had seen him at that time they may have had a different story manufactured, probably different than if they were surprised.

Q And subsequently you asked them if they knew Boudreau when he was brought into the room? A Yes, sir.

Q Now, did you have charge of the line-up when these defendants were placed in the line-up at headquarters? A On Sunday, October 17th, only, in the afternoon, from about half-past two until about four or half-past four.

Q How many persons were in that line-up? A Not more than fourteen or fifteen, and not less than twelve or thirteen.

Q Twelve or thirteen or fifteen, you say? A Yes, sir.

Q Who was present at that time outside of the men in the line-up? A There was Detective Chris. Dell of East Orange, Mayor Martens from East Orange, and I think Prosecutor Dorsch, or some name like that, from North Bergen or some place, Reporter John Farrell of the News, Reporter Jack Reilly of the Star, Chief Weimer of the prosecutor's office came in a little later, Mr. Fishkind, the official stenographer, came in a little later with detective Joseph Guiliano; Lieutenant Joseph Farrell, and there was some more there that I cannot recall just now.

Q And all of these defendants were in the line-up, were they? A Oh, yes.

*Frank E. Brex, direct*

Q And was Charles Malizzia in the line-up? A Yes, sir.

Q And was Bielke in the line-up? A He was.

Q And was Marone in the line-up? A He was.

Q And were these defendants identified by anybody that day in that line-up? A They were.

Q By whom? A Well, they were identified by a boy named Joe Duff, a girl named Helen Gillard.

Q Who did Joe Duff identify? A Ruff.

Q Who did Helen Gillard identify? A Ruff.

Q Were they identified by anybody else that day? A Yes, by Seigel and a number of others.

Q Who did Seigel identify? A He identified the whole five, the four defendants and the prisoner Boudreau, here.

Q You had a line-up about on the 19th? A I just saw that formed; I had to leave to go to the Grand Jury in this case.

Q You were not present then? A No, sir.

Q You saw a line-up form? A Yes, sir.

Q How many were in that line-up? A About twelve or fourteen.

Q Was Bielke in that line-up? A He was.

Q Was Malizzia in that line-up? A Yes.

Q Was Barone in that line-up? A Yes.

Q Now, did you hear Big Joe Juliano say anything at the time of the formation of the line-up on Tuesday? A Personally, no, not direct; a message was conveyed to me.

Q Somebody reported to you something that he had said? A Yes, sir.

Q Who was that? A Detective Thomas or Conlon, and as the result of that I took extra precautions.



*Frank E. Brex, cross.*

*Cross examination* by Mr. McGeehan.

Q Captain, at all times the defendants have been in your custody they have denied any connection with this hold-up, have they not? A Yes, sir.

Q And none of them resisted arrest, did they? A I can only speak for the arrest I took part in, that was the arrest of Barone. He did not resist.

Q Do you remember, captain, when you questioned Ruff that he said substantially what you testified to? A Yes.

Q Of course, the words you are not repeating verbatim? A No, sir, the substance.

Q Did he tell you, in effect, captain, you asked me where I was on the 19th, three months ago, I am not sure just where I was, I think I probably was at the shore, but I might have been somewheres else, I will have to think about it and check up on it; he told you that? A No, he didn't.

Q But he told you he could not be sure just where he was then? A I gave him two or three dates, and he thought a while and he said, "I thought I was down at the Shrewsbury Country Club."

Q You did not tell him what day of the week those dates were on? A No.

Q You did not tell him at that time the 19th of July was on a Monday? A No.

Q Or that the 20th was on a Tuesday? A No.

Q And you just asked him the bald question, "Where were you on the 19th of July, or where were you on the 20th?" A No, I asked him the 10th and 19th. I asked him first the 10th.

Q And then the 19th? A Yes.

Q And he told you that he thought he might have been down to the shore? A Yes.

Q He might have been anywhere? A No, he used these words, "I think I was down at the Shrewsbury Country Club. I am not sure."

Q Now, where were you on the 7th of May of last year? A I cannot recall.

Q You could not? A No.

Q You could check up your office records and determine? A Hardly.

Q Well, you probably could? A I might.

Q By looking up records and looking up other things? A I could probably with my association with something else.

Q And among those other things you could, by looking up your records, see whether you wrote a letter that day or wrote a report?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q And when Boudreau was arrested, it was five or six hours later that you first questioned him or saw him; is that right? A Yes.

Q And at that time he was— he already had been questioned by a number of officers? A Not that I know of. My memory is that I was off that afternoon, or not at headquarters, and I was told Boudreau was there when I got to headquarters about half-past seven or eight o'clock that evening.

Q And was Bielke there at that time? A Yes.

Q Do you know whether he had been questioned prior to that? A Of my own knowledge I do not know, and I didn't ask.

Q Well, before you ever questioned Boudreau, somebody had received information from Bielke;



I mean, some one of your subordinates had received information from Bielke in regard to Boudreau and what he had said a few nights before; isn't that right? A No, I received that information.

Q And you questioned Bielke before you questioned Boudreau? A I questioned Bielke, yes, immediately after the line-up and before I spoke to Boudreau.

Q Before you spoke to Boudreau? A Yes.

Q And how long before—the line-up you speak of is when Seigel put his hand on both Boudreau and Bielke; is that right? A That is right. That is the night of the 14th.

Q Sir? A That was the evening of the 14th.

Q About what time? A Probably half-past eight or nine o'clock.

Q And how long before that had you seen Seigel around there? A I do not think I seen Seigel. I think the formation was in effect when I walked upstairs, and my first recollection of it is that Seigel was walking from number one or two man, reading from left to right.

Q Well, when you got there, Seigel was already in front of the line-up? A Yes, the line-up was called and Seigel was starting to walk.

Q And how long before that line-up had you got any information from Bielke? A Nothing at that time.

Q Sir? A Nothing at that time.

Q You had not got any information? A No, I had got some information from Myrtle Foster.

Q Relating to the conversation a few nights before? A No.

Q Relating to some conversation with Boudreau? A No; relating to a statement with some one of these defendants.

Q That is Myrtle Foster? A Yes.

Q That is who you call the common law wife of Boudreau? A Yes. She may appear as Peggy at times.

Q You do not know how Seigel was gotten there? A No, not personally.

Q And no other witnesses in this Reid case were there that night excepting Seigel, were they? A Yes, I think Helen Gillard. I am quite sure Helen Gillard was there.

Q You are not entirely sure? A I would be positive on Helen Gillard.

Q And any other witnesses that you know of that first night that you knew of the arrest of Boudreau? A There were several others, but I just cannot recall now.

Q Now, you started to question Boudreau then, after you had questioned Bielke? A That is right.

Q And after Seigel had picked Bielke and Boudreau out of the line; that is right.

Mr. Fisch: I object to that. That is not the testimony, that Seigel picked Bielke and Boudreau out of the line.

Q You saw Seigel put his hand on Boudreau, didn't you, captain? A I did.

Q And you saw Seigel put his hand on Bielke, didn't you? A One hand on Bielke and the other hand pointing toward his hat.

Q One minute. You saw him put his hand on Bielke? A One hand, his left hand.

Q There were a number of people in the line? A Yes.

Q Isn't it true that they all took their hats off after he, Bielke, had? A They didn't; the



only one that took his hat off was Bielke in my presence.

Q Captain, didn't Seigel say, in accompaniment to his picking out the men afterwards, that "those are two men I saw," and in the presence of a number of your detectives? A He said that?

Q Yes. Didn't he say that "those are two of the men"? A He looked like the man until he took his cap off.

Q Didn't he say, wasn't it common talk in police headquarters that Seigel had picked out two men and one of them was guilty?

Mr. Fisch: I object to that. It is a double question.

The Court: Sustained.

Mr. McGeehan: Your Honor, I think it is a perfectly plain question which the witness can answer with a yes or no.

Q Captain, didn't you know and believe that at that time Seigel had picked out Bielke? A He looked like the man he said, but he wasn't positive. I got my information on that point from Detective Joe Kenny.

Q All you know, then, when you left the room, was that he touched Bielke and Bielke had taken his hat off at the same time; is that right? A He put his hand on him with his left hand and pointed towards his head, and as he pointed towards his head Bielke was taking off his cap.

Q Has Bielke light hair? A Yes, fairly light; a little lighter than mine.

Q How tall is Bielke? A Six feet or six feet one.

Q He is a taller man than I? A You are a little more erect than he; he may be a trifle taller.

Q He is a very tall man, isn't he? A I would say six feet or six feet one.

Q And that is the man that you say Seigel put his hand on and later he took off his hat and later you heard from some other detective he did not really pick him out, but he looks like the man?

Mr. Fisch: I object.

The Court: He did not say that; he said he learned whatever he did from Detective Kenny.

Mr. McGeehan: That is embodied in the question.

The Court: Is the prosecutor objecting?

Mr. Fisch: I object.

The Court: Sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

(Question read.)

The Court: You are just referring to that identification?

Mr. McGeehan: Certainly.

The Court: I will allow that.

Mr. Fisch: With this exception, if the Court please, I would like to have him clarify in that question the point that later he took off his hat; does he mean that Seigel took off Bielke's hat or did Bielke take it off?

Mr. McGeehan: Oh, we know what is meant by that.



The Court: The purpose of the question is to identify Bielke and I will allow it.

(Question read.)

Witness: That is a combination question.

Q Isn't that all correct? Isn't that what you testified to? A Yes; he put his hand on him, took off his hat, and then later on, as a result of a talk with Kenny, I heard what he is alleged to have told Kenny—that is Seigel.

Q This did not take place, however, in the room with the line-up—what he told Kenny later? A I don't know whether he told Kenny that; I saw him talking to Kenny.

Q Did you hear it said, did you? A No, not loud; not in my hearing.

Q But you were right there? A I was about fifteen or twenty feet away, and there was a big gathering in the hall, and I was going in and out and was called once or twice to the telephone in the interval.

Q I understood you to say, Captain, in answer to the prosecutor's question, that the reason you had Boudreau concealed in a telephone booth with a mask on was so that the defendants could not see him and therefrom manufacture some story by seeing who it was; is that right? A Yes, sir.

Q Now, you intended to say that, did you? A No, there were two purposes there.

Q That is what you told the prosecutor your purpose was, isn't it? A I told the prosecutor there were two purposes in view and they were answered separately by me to the prosecutor.

Q Tell us what the other thing was that you told the prosecutor? A It was a further check, a further verification check on Boudreau, a test

for Boudreau on the names, the names of these four people, if he could tell me after he came out of that booth how they stood from left to right, which he did. That was one reason, a further verification of Boudreau's statement that he knew these people.

Q Now, adding that reason, these other two reasons you did that; is that right? A Yes, sir.

Q Now, Captain, you knew that before this Boudreau had been handed photographs containing names of these defendants, didn't you? A Yes, but I don't think he read the names; I don't think he saw the names; the names are on the reverse side.

Q What makes you say that, as a defensive answer, or because you think he really did not look at them? A Oh, because as soon as those pictures were shown to him I stood there at the end of the desk and some he knew and others he did not, and as he did, those pictures were not turned around, we were not reading, we were looking at pictures, and he was shown pictures, and when a picture of Barone showed he said, "That is Chris Barone," and a couple of lapses and he did not know the next two, and he knew Ruff and he knew Big Joe Juliano.

Q So that he could not tell what names they were without looking at the back of those pictures? A The back itself; that is the Jersey City Rogues Gallery pictures; there would be the name on the back—

Q I show you that; see if there isn't anything on the front, the name, and the name "Barone"? A Yes, there is the name Barone.

Q You are mistaken, aren't you, Captain? I say you are mistaken, aren't you, that there is no name on the front of that picture? A There



is no name on the front there, but it is possible to hold that picture with the thumb over the name and he would not see it.

Q Now, you want to say that the printing of the name was on the picture, but that the finger was held over the name; is that right? A It might have been; yes, sir.

Q Oh, you are doing that just in a defensive answer, aren't you, Captain, and not because that took place? A No, sir.

Q You do not know that the finger was held over the name Barone on this picture? A Not to my knowledge.

Q Nor to anyone else's knowledge, do you? A No; but he did mention these names prior to looking at the pictures.

Q Was the name of Boudreau on the front of his? A On the front of whose?

Q Was the name of Ruff on the front of his picture? A Not that I know of.

Q Do you know whether it was or was not? A I am not sure; there is one there I am sure that the name was not on the front and that is Big Joe.

Q You were sure of all three at first, weren't you? A That was my recollection of it.

Q Now, Captain, as a matter of fact, all you know is that before any line-up, before any picking out by Boudreau, before anything was done, there was put into Boudreau's hands the three pictures that were marked for identification, weren't they? A They were not.

Q Before any putting in the telephone booth of Boudreau, you knew that these pictures were in his hands, didn't you? A He had looked at them.

Q Oh, he had looked carefully at them, they were in the hands of one of the detectives, hadn't he? A He had looked at them while

Q You mean to say they would not let him touch them to see if he knew these parties or not? A He looked at them and as he identified them or did not identify them he kept on turning to new ones.

Q These pictures of the three defendants that I am speaking of, they were given him for him to peruse and look at? A By recollection is that Luke Conlon or Kenny held them in their hands while he looked at them.

Q Well, don't you know whether there was a name in front or a name was spoken of with reference to each picture? A No, he mentioned the names of these defendants before we got the pictures.

Q Well, whether he did that or not, when he looked at the pictures, either by words coming from his mouth, or detectives' mouths, each picture was spoken of as the defendant Barone, Capozzi or Juliano? A No, that would be silly to do that. "Who is that"? "Who is that? Who is that."

Q Now, let us take that, did they say, "Who is that" to him? A They asked him who it was.

Q One minute. You can save time and you can answer the questions yes or no. Did they say as to each picture, "Who is that"? A Yes, "Who is that."

Q Now, would it be silly for him to say, "Why, that is Barone," would that be silly? A Not if that was covered up.

Q Would it be silly if that was covered up for him to say that was Barone? A I do not quite grasp your meaning.

Q Would it be silly for him to answer the question, "Who is that," by the witness saying, "That is Barone." A No. My idea of your question is that when we showed the picture of any of these defendants, we prefaced it with his name? We showed him pictures, we did not preface things.



Q Did you misunderstand that question? A Boudreau mentioned the names. Nobody but him.

Q I am asking a question. A That will save time—

The Court: Probably he misunderstands it. Your question later, would that be silly, the Captain did not refer to what you said would be silly.

Q Now, did you understand the question I put to you, as to whether the name was mentioned by one party or the other when they looked at the pictures. A The name was mentioned by Boudreau.

Q Then you knew before the 'phone episode that Boudreau had looked at pictures, and he mentioned the names of each defendant, didn't you? A Yes.

Q Then, if that had been so, and he had looked at the pictures and he had mentioned the names, you did not need a 'phone booth plan to find out if he knew the names and associated them with each defendant? A Oh, yes.

Q You did? A Oh, yes, positively.

Q Why did you need that? A Because in my experience, I have found people who identify pictures and could not identify the persons.

Q So you really had that 'phone booth business to be sure he could identify the persons? A Yes. I believed his story, but it was the com-

plete method. He spoke of the pictures and identified them, and then identified these four defendants.

Q When was he to pick them out of a line-up? A Immediately after.

Q Immediately after the 'phone booth incident? A Yes.

Q When you told the prosecutor you wanted him to hide in there, so that the defendants could not see who it was, and manufacture a story, did you mean manufacture a story for the trial? A Why, manufacture a story—if they had an hour's time before they saw him, then they would anticipate me asking where they had been, and if they knew him, and they would all deny they knew him, but we got an answer from Juliano that his face looked familiar.

Q Big Joe Juliano told you that he did not know that man. A He said his face looked familiar, he may have seen him somewhere.

Q Yes, he said he may have seen him some place? A No, he said, "I seen him some place, his face is familiar."

Q He told you he knew the man? A He said he saw the man.

Q You said that twice. Now, I ask you whether, in addition to that, didn't he say he did not know the man or who he is or his name, and never went around with him? A No, he didn't say he never went around with him. His remarks, in substance, were that the face is familiar, I saw him somewhere.

Q Captain, about ten minutes after this man Boudreau was in that telephone booth you had a line-up then, didn't you? A A short while afterwards.

Q I didn't hear you. A A short while afterwards, yes, sir.



Q Ten or fifteen minutes, wasn't it? A Well, I didn't time it, I cannot say how many.

Q Almost immediately, wasn't it? A Well, it took some time to get the prisoners lined up and the other people in line.

Q That is all the time it took, isn't it? A It may have been a half an hour, it may have been longer.

Q It may have been five minutes? A No, I don't think it could be prepared in that time.

Q It may have been ten minutes? A I don't know.

Q Just right after that? A A reasonable time after.

Q And you put the four defendants in line with some other people, didn't you? A They were told to take any position they want.

Q Captain, let's save time. A You said I put them in line.

Q They were in line with several other people? A Yes, sir.

Q And the only one you planned to put in front of them to see whether they could be identified, was this man Boudreau? A Yes, at that time.

Q So that the apparent purpose of that line-up was to have a line-up of men and see if Boudreau could pick out of that the men he said was in the Reid case, is that right? A No, he had done that, it was to get the reactions of being identified.

Q Well, was it to fool these men to thinking that he was honestly picking them out of his memory from the Reid hold-up?

Mr. Bigelow: I object.

Mr. McGeehan: Question withdrawn.

Q Captain, this man with a mask on in the telephone booth was concealed by that part of the booth and by the mask? A No, you would have to be blind not to see him in the booth, with the glass in it.

Q You had the door closed, didn't you? A The door was closed and right in the door was the big glass.

Q There is a seat in that 'phone booth? A Yes, sir.

Q And it is a pretty big one? A No, an ordinarily little chair.

Q And he was sitting and looking through that pane of glass? A He could see as far above that seat as I can above this railing here.

Q Unless he got all the way down? A He didn't get all the way down.

Q How do you know? A Because I saw him looking at these men.

Q And then he had a mask on to conceal his face? A Yes, sir.

Q Now, Captain, you sneaked him out of there, didn't you? A What do you mean "Sneaked him"?

Q Tried to get him out without the men getting a look at him? A Oh, yes. I mentioned that before.

Q You mentioned that after you heard Boudreau testify that the men were turned in the opposite direction when he went out, is that right? A No, my testimony was that I told these men to walk back to where they had been originally seated and keep looking out of the window and when they did that, during that interval, I opened the door and Boudreau got out with me into my office.



Q And you told the newspapers that these men were picked out of the line by Boudreau, didn't you?

Mr. Fisch: I object to what the Captain told the newspapers.

Q Didn't you, you told the newspapers that the defendants were picked out by Boudreau out of a line of persons, didn't you? A No, there were two newspaper men in the line, they knew that from what they saw.

Q One minute. At the time he picked them out of the line-up, with other people, is that right? A No. There was an Eagle reporter, and Star Eagle reporter in that Saturday afternoon line-up.

Q Now, I didn't ask you who was in it. Did you tell the newspaper reporters and let them see him pick these men out of the line-up? A They were in the line-up.

Mr. Fisch: I object.

The Court: I think you ought to name the persons.

Q Who were they? A A man named Ben Slavin, a reporter for the Newark News, and I think a man named Gerken.

Q Now, they saw Boudreau come in and pick the four defendants out of that line-up? A Yes, and they heard my statements to them.

Q Now, I ask you, Slavin wasn't in the room when this man was in the 'phone booth with the mask on? A I don't know. That was another room.

Q You never told the reporters or let any of them see this preliminary examination before that general line-up?

*Frank E. Brex, cross.*

Mr. Fisch : I object.

The Court: Answer yes or no.

A I don't let them review my work.

Q No, you don't let them see your work? A No, that work was all right. That was perfectly proper.

Q But you did let them come and see Boudreau look at the line-up of a number of men and pick out a number of defendants? A Not purposely—

Q You can answer that yes or no. You did let them see that picking out after the 'phone booth episode?

Mr. Fisch: I object to that and submit that that question has been answered.

The Court: It has been answered.

Q Now, isn't it a fact that you didn't want the members of the press or the defendants or anyone to know about that preliminary view of these defendants that was given before the line-up? A No.

Q Isn't it a fact that you were surprised when Boudreau admitted on the stand that he was in the 'phone booth? A I was surprised?

Q Yes. A Why, the defendants knew he was in there the next day.

Q Did they know who was in there? A They certainly did.

Q How did you think they knew? A When Seigel rapped every one of these five men, Joe Juliano, said to me—Big Joe Juliano—is that the man that was in the telephone booth? I said "No, Boudreau."

Q Are you sure you said that? A Positive.



*Frank E. Brex, cross.*

Q Didn't you go back to headquarters after Boudreau left the stand the other day and say, "Who is the rat that McGeehan got the information from that Boudreau was the man in the 'phone booth"? A No, sir, whoever told you that is a liar.

Q Isn't it a fact that you didn't want anyone to know and that you never told anyone at the Court House here or anywheres else that Boudreau had been in the booth? A I told the two investigators from the prosecutor's office, and there were a number of detectives in the room, and if I am not mistaken, Slavin was a witness to that.

Q You think you might be mistaken as to Slavin? A I think he was there.

Q Well, if your purpose was so that they could not give some explanation as to whether they knew this man or deny that they knew him a few minutes later, that man was put right in front of them, wasn't he? A I had a purpose in that first telephone booth identification.

Q Wasn't that purpose, Captain, because you knew that that man did not even know the defendants and would not know them if he saw them even after looking at the pictures and you wanted to give him an opportunity to pick them out, not from his memory, any time months before, but from the looks of these men alone in the room? A That was the last and complete test. He saw the pictures, and the purpose of me putting him in the booth was to see whether he could call off those names, reading from left to right, after coming out of that booth, which he did.

Q And before he was put in that booth, he was told, "We are going to give you a chance to

look at Joe Juliano, Little Joe and Big Joe." A No. Do you want me to tell you what I told him?

Q What did you tell him he was going to look at? A I said, "I am going to put some men in the front of the telephone booth. I want you to study their faces and recall them from left to right. I want to know if you know them." After he was taken out he said they were Kid Ruff, Barone, Big Joe Juliano, Little Joe Juliano.

Q You told him you wanted him to study their faces? A Yes, take a good look at them, that is why I brought them down from the end of the room close to the booth, they were within three or four feet of the booth.

Q And who was talking to him before he was put in the booth? A I spoke to him in my office.

Q Alone? A I cannot recall, there may have been someone there, I think Lieutenant Gannon was there or Sergeant Bell.

Q And you told him who these men were going to be? A I did not, I told him I was going to put some men in a line-up in front of that booth.

Q And you never even mentioned, Captain, they were to be Barone and the Julianos and Capozzi? A No, sir. I told him I was going to put some men in front of this booth.

Q Didn't tell him who those men were going to be? A No, I did not.

Q Did you ask him then whether he could pick those men out? A I don't recall.

Q Or if he would know them if he saw them? A He said he would know them because he had been with them an hour the day of the murder and he had known Little Joe Juliano for some time.



Q And didn't you tell him that the men who were going to be put in there were these defendants? A No, sir.

Q Didn't mention that at all? A No, sir.

Q Did you hear him testify that the reason he went in there was not at your suggestion, but because he was afraid of young Joe Juliano?

Mr. Fisch: Objected to.

The Court: Sustained.

Q Did Boudreau at any time say, before he went into the 'phone booth, "Let me go in the booth because I am afraid of them"? A No, he was afraid of them in the open line-up, for fear of getting punched in the stomach.

Mr. McGeehan: I ask that that be stricken out, all except "No," as not responsive to the question.

The Court: It will be so ordered.

Q Did he say before he went into the booth that he was afraid of Little Joe because Little Joe had threatened him? A Immediately before going into the booth?

Q Yes. A He had repeatedly for the night before and that day mentioned, when we asked him why he did not confess quicker—

Q You heard the question. Did he immediately before going into the booth say he was afraid to go in front of the men because he was afraid of Little Joe? A Immediately before, no, sir.

Q Did he request you to let him go in the 'phone booth and let him put a mask on? A No, it was my suggestion.

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

Q Now, you said something about his having ulcers of the stomach, and that he was afraid to go in front of the men because he had ulcers of the stomach, is that right? A Yes, he was afraid they would punch him in the stomach.

Q Did he say because he could not stomach the job he was going to do? A No.

Q Is it a fact, or not, that Boudreau was given pictures of these men or shown pictures of these men before the 'phone booth incident or the line-up? A Yes, sir.

Q That you are sure of? A Yes, immediately after he confessed then.

Mr. McGeehan: I ask that that be stricken out as not responsive.

The Court: I will allow that.

Q Then, it is not so, Captain, that he was handed pictures of the men after they had been in the line-up, is it? A Before they were in the line-up.

Q Answer the question.

Mr. Fisch: I submit, if the Court please, I think it is an answer.

Mr. McGeehan: No, it could be before or after and I would ask that the question be answered.

The Court: So far as the Captain knows.

Q So far as you know? A Which line-up do you have reference to?

Q The line-up that we have been talking of during this testimony? A No, there were three line-ups I participated in.



Mr. McGeehan: I will tell you if you don't know which one I mean. I withdraw that entire question.

Q As far as you know, then, was Boudreau shown any pictures of the defendants after the first line-up? A No, sir.

Q Then he could not have been shown any after the second and third line-ups, could he? A He was shown them after the second line-up and after he confessed.

Q By the second line-up do you mean the line-up that he picked these men out? A The first line-up was when he and Bielke were in line, that was on a Thursday night.

Q Was he shown any pictures after the second line-up of these men? A The second line-up?

Q After what you just told us about the second line-up? A No, the second line-up was on Saturday.

Q Was he ever shown pictures after he had stood in front of the line-up alone without any other witnesses, without anyone picking these men out? A Repeat that again, it is rather a lengthy question.

Q Was he ever shown by you, or in your presence, the pictures of these defendants subsequent to the time, the afternoon of the 'phone booth episode, and the picking out of the men by him? A No, not in my presence.

Q Captain, you showed these pictures to him at the time he first mentioned the names of the men? A Those pictures, as far as I—

Q You can answer that. A There were a number of line-ups, there were a number of pictures.

Q I am not asking you to make a speech about line-ups. Was this man shown these pic-

tures at the time you first mentioned the names of these defendants? A After he had mentioned them.

Q How long after? A Immediately afterwards.

Q Within a few minutes afterwards? A Probably, right after that.

Q And then you did have the defendant's pictures, pictures of Big Joe Juliano, Capozzi and Barone at headquarters, didn't you? A The two of them—

The Court: No.

Witness: Yes and no.

Q All right, answer that in order to give the information. You cannot answer that yes or no. A I want to be perfectly fair.

Q Just tell us about it. A One was a Jersey City picture and another was an Elmira Reformatory picture, it was not in the gallery—

Q Captain, my question is, did you have them then or not? A I did not know we had Capozzi's picture until Lieutenant Gannon, I think, brought it out.

Q I am asking you if you had it before this man stated the names of the defendants? A Oh, afterwards they were shown, afterwards, they were gotten out afterwards.

Q You have told us that and we have heard it. Did you have in headquarters, in Newark, in the possession of the police department, pictures of these three men before Boudreau mentioned one of these defendants? A Yes, but not in the same place.

Q In headquarters? A Yes, but not in the same place.



Q You mean in different rooms in headquarters? A Yes.

Q Now, you had those pictures at the time of the Reid hold-up, didn't you, in headquarters? A I didn't know we had Capozzi's picture until after Boudreau had told us.

Q Well, you know now? A Yes, I know now.

Q You had all those pictures at the time of the Reid hold-up? A Yes.

Q And you worked on the case at the time of the Reid hold-up? A I did.

Q And you showed the pictures of these three defendants that you then had to the various witnesses that were called in to be questioned about the case? A No.

Q You are sure you did not? A I am positive.

Q Did you show any pictures to those people? A The only ones they could have seen was Big Joe. That has been in the gallery for years.

Q Did you show them that picture? A That one picture, extracted from the big gallery, no.

Q Do you know whether your men showed those pictures? A I don't know.

Q Do you know whether your men took any of them up to the hospital of these three men and showed them to Duff? A I don't know.

Q You do not know one way or the other on that, then, do you? A No.

Q Was there a Mr. Geldert questioned, an eye-witness, of what happened down there at the Reid place?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Did you, yourself, show to Mr. Geldert, who is subpoenaed here as a State's witness? A No.

Q Do you know whether he was a witness as to what occurred down at the Reid place? A I don't know that.

Q Was he at headquarters? A I don't know.

Q Did you ever show a man by the name of Geldert the pictures of a man in this case, or the defendants, any of them?

Mr. Fisch: I object.

The Court: Sustain the objection.

Mr. McGeehan: For the purpose of refreshing his recollection as to whether he showed any witness in this case pictures of the defendants.

The Court: I rule it is not a proper question.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, none of the defendants in this case were picked out by photographs by any of the eye-witnesses of the hold-up after it occurred, were they?

Mr. Fisch: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi



prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q The persons that you have said in your direct testimony picked the defendants out in line-ups, never picked out the photographs of any of the defendants shortly after the Reid hold-up occurred, did they?

Mr. Fisch: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q The persons who you testified on direct examination picked out the defendants from the line-up were shown pictures of defendants shortly after the hold-up had occurred, were they not? A I do not know of my own personal knowledge.

Q There were only seven or eight photos there then when the three pictures of Barone, Capozzi and Juliano were shown to Boudreau? There may have been more; about that. Well, you testified seven or eight? A About that; I didn't count them.

*Frank E. Brex, cross.*

Q Now, I think you were asked whether you knew of an identification in New York of a man named Powers.

Mr. Fisch: I object to that.

Mr. McGeehan: Well, this witness did not testify on that.

Q Now, Captain, how many hours, altogether, were you at Boudreau questioning him before he made any statement that he knew anything about the Reid hold-up? A Anywheres from probably two and a half to three, three and a half to four hours.

Q And the detectives who were co-operating with you took turns in questioning him? A Small turns, mostly by Detective Guiliano and myself.

Q Well, you testified that you questioned him a half hour and then somebody else would go at it? A Yes, but the major portion was done by Detective Guiliano and myself.

Q He told you first he knew nothing about the Reid hold-up? A That is right.

Q Did you ask him at that time—I will withdraw that. In the day and a half before he said anything did you investigate to determine where he lived and who his associates were and all that? A There was some investigation going on that day.

Q Some going on? A Yes.

Q You already said that you had in your possession, or knowledge, a statement made by Bielke, didn't you? A Yes.

Q And I think you testified some statement made by his common law wife? A Yes, Myrtle Foster.



*Frank E. Brex, cross.*

Q Now, from your investigation, you learned immediately where he lived, didn't you? A Yes.

Q He told you where he lived? A Yes.

Q Did you ask him who lived in the house with him? A No. I asked him did he keep a flat there or was it light housekeeping or furnished rooms.

Q Well, didn't you ask him who else lived in the house with him? A I was told that by Myrtle.

Q Right away? A No, after that. After my first talk with her.

Mr. Fisch: That is Myrtle Foster?

Witness: Yes.

Q Then you knew right away that young Joe Juliano lived in the same house that Boudreau lived in? A Yes, that night from Myrtle.

Q Yes, you knew that long before Boudreau made any statement? A Yes.

Q Now, then, it was not from Boudreau that you first heard the name of Juliano, was it? A No, it was from Myrtle.

Q Now, when did you learn that Joe Juliano lived in the same house with Myrtle, was the name familiar to you? A Somewhat, yes.

Q And did you know then whether it was the man named Big Joe Juliano or Nicholas Joe Juliano who lived there? A No, I didn't.

Q It did not take you long to find out? A Well, not by the description. I learned it was Little Joe, whom I didn't know.

Q Now, you had that knowledge in your mind, and all your detectives knew that, for approximately thirty hours' questioning, didn't you? A The detectives assigned to this case, yes.

Q And you? A Yes.

Q So that as you took half-hour turns at Boudreau, and had in mind—you told him, of course, that Bielke had said he, Boudreau, had admitted knowing something about the Reid case, didn't you? A I told Boudreau, yes.

Q And you told him, or reminded him, that Seigel had picked him out as being a man that he had seen at the Reid hold-up; you reminded him of that? A Picked who out?

Q Boudreau. A Boudreau, yes.

Q You reminded him of that? A Yes.

Q Now, you believed he was there? A I surely do.

Q Yes, and you believed it then? A I believe it now.

Q Yes, you have said that twice. I asked you also did you believe it then that he was there? A As a result he states.

Q Yes, you believed it then? A Yes.

Q Now, believing that then and having these things that you confronted Boudreau with, you were trying to get him to say he was with him, weren't you, captain? A Certainly.

Q Yes. Now, in doing that you talked with him and the other detectives talking with him; isn't that right? A Yes.

Q And in talking with him did you tell him that you had the evidence on him—that he was there in that hold-up? A Yes.

Q Did you tell him that, having that evidence on him, and recalling to him what it consisted of, that he was in danger of being convicted of murder? A No, sir.

Q You did not mention it to him? A No.

Q In the hours of questioning? A I was talking confession to him.



Q Sir? A I was talking confession to him and told him I didn't care whether he told us or not.

Q Then, you were talking confession to him, but you were trying to find out from him not only whether he would admit he was there but also who was him as a good police officer? A I questioned who was with him.

Q And you wanted to find that out? A Certainly.

Q And that is what you were working on him for? A Certainly.

Q And in working on him all that time, didn't you picture to him the danger he was in? A No. He would never tell. I am not talking electric chair to a man I am trying to get a confession from.

Q Oh, but you are talking electric chair to a man that you are trying to give a chance to save himself, by bringing in others, aren't you? A Repeat that long question.

(Question read.)

The Court: It is rather involved, Mr. McGeehan.

Mr. McGeehan: The question will be withdrawn.

Q You did not need a confession from him to prove him guilty, did you, in your opinion at the time? A Well, I was out to get as much evidence as possible.

Q As far as Boudreau was concerned, you had more than one person who said that he heard him say that he was in the Reid hold-up, didn't you? A No, sir, I only had one.

Q And that was Bielke? A Bielke.

Q Did you ever question a girl by the name of Sorenson? A No, sir.

Q Did you ever question the girls whom Bielke said were with Boudreau and him when he made that statement? A I questioned two girls and they denied it; they denied that he said it.

Q They denied they heard him say it? A Yes, sir.

Q But you had Bielke's statement of that admission? A Yes, sir.

Q And you know that an admission made to a layman who was ready to testify about it, and told you about it, was as much of a confession as if he had told you it himself? A No, it would be a matter of veracity if he said he did not say it and the other one said he did.

Q But it would still be a matter of veracity if he made that statement to you and later said he didn't say it? A Yes, but we have corroborated it since.

Q But at that time you believed that you had the evidence of his admission and the evidence of an eye-witness against him? A Yes, sir.

Q So what you wanted further from him was to find out who was with him then? A Oh, yes, his confederates, certainly.

Q That is what you chiefly wanted? A Oh, yes, we had him.

Q Now, in trying to get that from him, in trying to get that information from him, you argued with him and tried to convince him that he should tell, didn't you? A We did.

Q And at first he denied he was in it, did he; first he said he knew nothing about the Reid hold-up? A In substance, he kept denying it.



Q And then, later on, how long after questioning him was it he made the statement? A (No answer).

Recess from 1:00 to 2:00.

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After Recess.

Continued pursuant to adjournment.

Present, counsel as before stated.

FRANK E. BREX, resumes the stand.

Q (Previous question read.) When he admitted he knew something about it? A Well, toward the latter end of the three or three and a half or four hours' talk.

Q Now, Captain, during that time did you ask him whether he knew any of the defendants? A I am positive I didn't ask him about Big Joe Juliano, the defendant Kid Ruff or Barone. I may have asked him about Little Joe Juliano.

Q Yes, so that in your questioning of three or four hours, to get him to say whether he knew anything about the Reid case, you mentioned the name of Little Joe Juliano to him, didn't you? A Yes.

Q Now, did he say whether he knew him or not? A Yes, he said he knew him.

Q He admitted he knew him? A Yes, he said he lived in the same house with him.

Q And you therefore mentioned his name to him, then, before he ever mentioned it to you? A Yes, I mentioned it in connection with what Myrtle had told me.

Q Now, Captain, was that at the beginning of the questioning of this man you mentioned young Joe Juliano's name to him? A I think our first talk was on his telling Bielke—

Q Now, can you say? You are thinking out loud. Trying to figure out when you said it? A No, I am trying to give you an answer.

Q Now, was it the first or second half of the three or four-hour talk? A No, two other names were first discussed.

Q So during the first part of your talk, within the first hour of it, did you ask him about young Joe Juliano? A I would not say now. It might have been a half hour. It might have been an hour and a half. I spoke at great length about two other names.

Q Now, the name of Joe Juliano was familiar to you, wasn't it? A Yes.

Q Did you know young Joe Juliano? A No.

Q You knew Big Joe Juliano, though, didn't you? A Yes.

Q And you knew Ruff? A No, I didn't know Ruff.

Q You never knew him? A Never knew Ruff.

Q You never saw him? A I never remember seeing him before he was brought into headquarters.

Q You are sure about that? A I am positive.

Q And you knew Barone, didn't you? A Oh, yes, I knew Barone well.

Q You knew Barone? A Yes.

Q And you knew that Big Joe Juliano and Barone were friends? A I never saw them together.

Q You never saw them together? A Not that I can recall.



Q Now, will you answer the question? Do you know whether they were friends or not? A I had heard they were friends.

Q And you believed they were friends then? A I thought they were.

Q But you say you didn't know Ruff at all? A No.

Q Never met him? A Not to my knowledge, but I know of seeing that man before he came into headquarters that day.

Q Now, did you ask him in that three or four-hour period of questioning whether he knew Big Joe Juliano? A No.

Q You did not? A No, no.

Q Did you ask him whether the Joe Juliano who lived with him was related to Big Joe Juliano? A No, I didn't.

Q You never saw him in front of Child's, Captain? A I may have saw him; I may see many people, but I don't remember seeing them after that. I paid no special attention to him; I didn't know he was Kid Ruff or anything; I don't remember seeing the man.

Q You knew his face? A I don't remember his face even; I may have looked at him a hundred times but I don't remember him.

Q Now, Captain, during that long period of questioning, when you were trying to find out who may have been with Boudreau, didn't it occur to you to see whether that Juliano he mentioned was any relative of the other man whom you knew and whom you knew had the same name? A I asked him for the description of the Juliano he mentioned.

Q Didn't it occur to you to ask him if he knew the man who had the same name and whom you knew? A No, sir.

Mr. Fisch: I object to that.

The Court: It is argumentative.

Q Didn't you ask him that? A No, sir.

Q Isn't it a fact that when you learned, as you did, that he knew young Joe Juliano, that you mentioned the names of a lot of persons in questioning him about trying to get him to say who might have been implicated in that robbery with him? A I did not mention one solitary name to him.

Q What was the first thing he said, Captain, about his knowing something about the Reid case? A He said he would tell us.

Q What is that? A He said he would tell us.

Q And then he admitted that he had participated in it? A Yes, he said he was in it.

Q That was the first break that came in his story; is that right? A That was the substance of it; yes, sir.

Q Isn't it a fact, Captain, or didn't you hear Boudreau say, Lieutenant Kenny say, Detective Guiliano, all say, that he said at first he was not in it, but that he heard that young Joe Juliano was in it?

Mr. Fisch: I object, your Honor, as to what the others said.

The Court: Your question relates to the time when he did make the statement, when he implicated himself. The Captain is answering that question.

Mr. McGeehan: I did not quite get that, your Honor.

The Court: You asked the captain as to what was first said, and I understood when



he finally admitted he had something to do with it.

Mr. McGeehan: I asked what the first break was.

The Court: That is what I understood you to mean when you asked about the break.

Mr. McGeehan: Your Honor, then I asked the question, "Then finally he admitted he knew something about it," and the captain said, "Yes," and I said, "Did he then admit he was implicated in it?" and the captain said, "Yes," and I asked him if that was the first thing that came in the previous story which the captain had told that he knew nothing about it.

The Court: I don't remember those words. Reframe your question so that it will have just what you have in mind.

Q Now, isn't it a fact that he did not, when he first began to make admissions, admit that he had anything to do with it? A My recollection of that case is that he said he was in it before he mentioned Joe Juliano's name.

Q So, your memory is not that at first he said he did not have anything to do with it, but that he heard young Joe Juliano did; is that right? A I did not hear him say that young Joe Juliano was in it and he was not in it.

Q You did not hear that at all? A No, sir, I did not.

Q Then, your recollection is otherwise? A He put himself in first and then he told about young Joe Juliano and the rest.

Q Then your recollection is different than the witnesses whom I have mentioned? A Yes, sir.

Q That is your best recollection, is it? A Yes, sir.

Q Do you think you may be mistaken about that? A No, sir.

Q You don't think you can? A No, sir, on account of one reason.

Q Now, Captain, he then, immediately, when he changed from his previous story that he knew nothing of it, admitted that he participated in that; is that right? A Yes, sir.

Q That was verbally; is that true? A Yes, speaking.

Q I mean at that time? A Talking, yes, sir.

Q Verbally? A Yes, sir.

Q Now, when he admitted that he participated in it did he immediately tell who participated according to him coming in it with him? A Right after he says he was in it, and he was the driver.

Q And immediately he told you he was in it with him? A Yes.

Q Then at no time according—who did he say was in it then, Captain? A Chris. Barone. I asked him twice about Chris. Barone. He pronounced Chris. Barone's name Chris. Broom.

Q Now, who did he mention? A He mentioned Big Joe Juliano, a fellow he knew as Kid Ruff, Little Joe and Barone.

Q So that at no time in his entire statement when he broke, did he mention alone Young Joe Juliano? A My recollection is he told those four names in succession.

Q Now, Captain, isn't it a fact that you questioned him about Ruff, Barone and Juliano, as well as Little Joe Juliano and showed him the pictures of the three first named for a long time before he said anything about whether they were in it with him or not? A No.



Q Isn't it a fact that you told him that he could save himself from the evidence that you had against him by admitting that they were in it with him? A No.

Q Isn't it a fact that you told him in your long talk with him that it would be better for him to tell who was in it with him? A No.

Q Isn't it a fact that up to that time from the witnesses you had interviewed after the occurrence of the crime that you believed that only four persons participated in the hold-up?

Mr. Fisch: I object as to what this witness believed.

The Court: I will allow it.

A No, I don't believe anything until I prove it.

Q Sir? A I don't believe anything until I prove it.

The Court: Just answer the question, Captain.

A No.

Q From the statement made to you by the eye-witnesses to the occurrence, didn't you believe, and weren't you looking for four people and not five? A We were looking for four at least.

Q You were looking for specifically four, weren't you? A Yes.

Q And you sent out a police circular, describing four different people, did you not?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q How was it you were looking for four people—I will withdraw that. Did Seigel tell

you that he saw and recognized five people right after this hold-up occurred?

Mr. Fisch: I object to that.

The Court: Sustained.

Mr. McGeehan: I submit that that is proper upon the basis laid in the questioning of Mr. Seigel that he had already admitted that they were looking for four people.

The Court: I have ruled.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q You broadcast a description of the bandits after the hold-up?

Mr. Fisch: I object.

The Court: Sustained. It is not cross examination.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you ask Boudreau whether there was with him a man about 35 years old, 5 feet 11



inches, thin face, light complexioned, wearing double-breasted suit, straw hat and colored band? A No.

Q You didn't ask him that? A No.

Q Well, you had broadcast a description of such a man?

Mr. Fisch: I object.

The Court: That is not cross examination.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you ask him whether, as a matter of fact, there were only four persons present? A No.

Q Did you tell him in all this time that it would be better for him to say who was with him?

Mr. Fisch: I object. He has answered that two or three times.

The Court: That has been answered three or four times.

Q And in questioning him, did you tell him that you showed him what evidence you had against him, that you had a complete case against him, and that you knew—and did you suggest to him or make believe to him that you knew that this Juliano, whom he lived with, and

his cousin Joe Juliano, Barone and Ruff were with him?

Mr. Fisch: I object. I submit that that question has been answered.

The Court: I will allow that.

Q (Question read.) A To the latter part of your statement I say no, I didn't suggest that or mention it; to the first part, I told him what we heard from Bielke and that I had seen Seigel identify him.

Q Now, Captain, before, you mentioned the line-up in direct testimony, didn't you, when the witnesses were called down to headquarters, didn't you? A Yes, on a Sunday.

Q Now, these men were in custody from Saturday, was it? A From Saturday morning about half-past two or three until about probably 1 o'clock, the last one, the first was Barone and the last was Ruff.

Q Now, before any persons whatever, outside of Boudreau on the telephone occasion, before any person, except on the occasion I have just mentioned looked at or was given a view of a line-up in headquarters, you permitted newspaper photographers to take pictures of all the defendants, did you not?

Mr. Fisch: I object to that, if the Court please, as to what Captain Brex permitted to be done.

The Court: I will allow that, it probably will be material later.

A I permitted them to take pictures?



Q They could not take a picture in headquarters without your permission? A I did not permit them to take pictures.

Q You did not permit them? A No, I gave them the pictures.

Q When did you give them to them? A I think on Saturday.

Q You gave the Sunday Call representative one? A And the Ledger.

Q And the Sunday Call? A But not that one which appears in the Ledger, that is a combination of two sets of photographs.

Q My question is, did you give a picture to the Ledger and did you give one to the Sunday Call on Saturday night? A Yes, I gave them two pictures.

Q You knew they were to be published in the morning edition of the Newark Sunday Call? A I supposed they would.

Q I ask whether what I show you are the two pictures you gave to both the Ledger and the Sunday Call? A Yes, sir.

Mr. McGeehan: I ask to have them marked for identification.

(The same are marked D. 2 for identification.)

Q Now, I show you Exhibit D. 1 for identification and ask you whether those two pictures, considering the three figures on the left being one picture and the five pictures on the right being one picture, were given by you to the Newark Morning Ledger on Saturday night? A Not in the form that they are presented here.

Q They were separated as they are in Exhibit D. 2 for identification, is that right? A This

is all right. Boudreau has been eliminated in these three to the left.

Q Exhibit D. 2 shows just as they were, is that right? A That's the idea.

Q And Exhibit D. 1 for identification shows it with the exception that in the left-hand picture Boudreau is not included? A That's the idea.

Q Is that right? A Yes, they have eliminated him so they would not have any duplication.

Q Now, Captain, these pictures are of the same men who were in the line-up on Sunday afternoon, aren't they? A Yes, sir.

Q They are in the same clothes as they were in the line-up, aren't they? A Let me see the pictures. (Examines.) No, they are not.

Q You mean to say they had different clothes on on Sunday afternoon? A I do, yes, sir.

Q Where did they get them from, do you know? A What they had up in their cells.

Q They had other clothes in their cells? A Such as coats and collars and overcoats.

Q Well, didn't they all have collars on in the pictures? A Bielke hasn't.

Q I am referring to the four defendants in this case. They are in the same clothes that they wore in the line-up, aren't they, in the picture? A Excepting Barone, he had an overcoat on.

Q Barone had an overcoat over the same suit? A Apparently over the same suit.

Q And the hats that are in the picture, are they the same hats that they had in the line-up later, aren't they? A Yes, sir, that is, the defendants.

Q I mean the defendants? A Yes, sir.



Q Captain, you gave these men a line-up on Sunday afternoon and on Tuesday, didn't you? A I did.

Q And you knew that the persons whom you were to call upon to pick them out might see those pictures in the newspapers, didn't you? A They might see them?

Q Yes. A I don't know whether they were going to see them or not.

Q Oh, but you figured, didn't you, if they were published in the two morning newspapers of Newark, the Sunday Call and the Sunday Ledger, that are delivered the first thing in the morning, that you were calling them down in the afternoon, that the people you were going to call would have an opportunity to see the pictures? A Not necessarily.

Q Well, you knew that they would be likely to see them? A They might see them.

Q Yes. I will put it that way. You knew that they might see them, is that right? A Yes.

Q And none of them had picked them out before? A No, not that I know of.

Q Do you think it was a fair line-up to give that preview of pictures in both papers before calling them down to try and pick them out of the line? A Perfectly fair.

Q You thought it was? A Yes, perfectly fair.

Q Did you give these pictures to the Newark Evening News, and were they published in the News on Monday?

Mr. Fisch: I object to that. I submit it is not cross examination.

The Court: Sustain the objection.

Q Did you give those pictures to the News before you had your line-up on Tuesday?

Mr. Fisch: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Isn't it a fact, captain, that before the persons whom you testified on your direct examination saw the line-up on Tuesday, you had given to the Newark Evening News, and the News had published the pictures which I just have showed to you—

Mr. Fisch: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: If you can show that these people had the pictures—if you can show that the persons who identified the pictures saw them—



Mr. McGeehan: Oh, there is evidence already in the case that they saw them in Monday's News.

The Court: I mean, if you can associate the Captain with that, you may ask him.

Mr. McGeehan: Well, I am attempting to do this by showing that this is a picture printed in the News and that he gave it to the News.

The Court: Oh, no, that carries with it a presumption. Ask the captain directly if he knows.

Mr. McGeehan: I will.

Q Do you know whether you gave those pictures that appear in the Newark Evening News? A My recollection is that I gave them a group picture.

Q You mean the Call and the Ledger? A The News.

Q The Newark News? A Yes.

Q You gave them some pictures? A My recollection is a group picture. These are individual pictures.

Q Now, does looking at those two pictures refresh your recollection as to whether you gave them the head pictures, that is, the bust pictures of each of the defendants? A No, my recollection is I gave group pictures.

Q And it is your recollection that you did not give to the Newark Evening News those six individual pictures? A No, I don't think I did.

(Picture marked Exhibit D. 3 for identification.)

Q Now, when these men were in the line-up, they stood right next to each other, didn't they? A You mean these four right next to each other?

Q I mean the three, particularly, Juliano, Barone and Ruff? A No.

Q They did not? A No.

Q Pretty sure of that? A I am positive of that. There was two stood together.

Q On Sunday? A On Sunday.

Q And wherever they stood, did they change their positions at all during that line-up? A No.

Q Kept in the same position all the time? A They were asked, but they refused to change.

Q They did not want to change? A They did not want to change.

Q So that when one after another person came before them, they stayed in the same place in the line-up? A I made the statement each time—

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

The Court: Strike it out.

Q They just kept the same position? A The same position, yes.

Q Now, do you remember when Seigel identified them? A Yes.

Q You testified to it on direct? A Yes.

Q He identified the whole five, is that right? A That's right.

Q Did you express amazement at the rapidity with which he put his hand on the five men?

Mr. Fisch: I object to that.

The Court: Sustained.

Mr. McGeehan: It is part of the *res gestae.*



The Court: *Res gestae* does not apply.

Mr. McGeehan: May I state what I think it is.

The Court: Mr. McGeehan, I will give you the benefit of the exception without your stating it.

Mr. McGeehan: It is no good to me then.

The Court: Yes, it is.

Mr. McGeehan: I think it is part of the *res gestae,* of the occurrence.

The Court: This is two days after the arrest. That is your legal reason and I overrule your question and you may have an exception.

Counsel for defendants, Louis Capozzi, Joseph Juliano and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Captain, he did it with great rapidity, Seigel, didn't he? A The second time.

Q What do you mean "the second time"? A He touched them twice.

Q And at one time then he did it with great rapidity? A The second time.

Q The second time he did it with great rapidity, didn't he? A Well, he just went along touching them.

Q Touched each one as fast as that, didn't he? A No, he paused slightly, right along without hesitation.

Q And you expressed amazement, didn't you, then?

Mr. Fisch: I object.

The Court: Sustained.

Counsel for defendants, Louis Capozzi, Joseph Juliano and Christopher Barone, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

Q And he picked them out twice, did he, that same day? A Yes, sir.

Q How long elapsed between the two times, captain? A Immediately.

Q He touched each one twice? A Yes, sir.

Q Why did you have him go over them twice? A No special reason, but he had picked them out not in succession the first time, and he had picked out the five, and I requested him to go along the line and pick them as they presented themselves.

Q Why did you have him do that if he had already picked them out, captain? A For no special reason.

Q Wasn't it because he had picked them out very quickly? A No, the second time he was more rapid than the first time. The first time he went along studying their faces and then picked them out.

Q Are you sure it was not the first time he picked them out quite rapidly? A No, I have told you it was the second time.

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

Q Now, you said Malizzia was in that line-up on Sunday. A Yes. sir.



Q Are you sure of that? A I am quite positive.

Q Pretty sure that he was arrested on the Sunday that you are speaking of, are you? A Yes, sir.

Q You are absolutely certain of it, are you? A I am very positive of that.

Q You are sure he was not arrested later in the week? A Not to my knowledge.

Q You are very positive of it? A I am quite sure that Malizzia was in that line-up.

Q Have you any doubt about that? A Well, I think he was there, I still think he was.

Q A minute ago you were positive? A Quite positive, I said.

Q Was your positiveness changed by my question that he had not been arrested later in the week? A No, your talking had no effect on me.

Q Then, you are positive he was there? A I am quite certain, yes, sir.

Q How many men were in the line-up, captain? A Twelve or fifteen.

Q About twelve?

Mr. Fisch: Or fifteen.

Q And of these twelve or fifteen, five were the defendants and Boudreau? A Yes, sir, that's right.

Q And four of the others were men who had had their pictures printed in the paper on Sunday, is that right? A Yes, but attired different than the pictures indicate.

Q But four of the others had already been pictured in the papers, hadn't they, separately from the five who were defendants in this case? A I am not sure about that, I know Bielke was

there, I know Nick Marone was there and I think Malizzia was there, but Marone and Bielke were attired differently in the line-up than they are in this picture.

Q All right, you have said that several times, captain. Now, Ruff was attired just the same as in the picture, wasn't he? A I think on Sunday, but on Tuesday he was dressed different.

Q You are positive of that, captain, are you? A I am positive.

Q Do you remember where he got his clothes from? A No, I do not.

Q Do you know of anyone bringing any clothes into Ruff between Sunday and Tuesday? A I do not.

Q Do you know where he would get another suit if he had another suit on? A Through probably telephoning.

Q Was he allowed to telephone? A I think he was, that detail I did not take care of.

Q And you did not take care of the detail to see whether he got other clothes? A No, sir.

Q And what did he have on on Tuesday? A On Tuesday he had a light suit, something like he has got on now, but that is not the suit.

Q You are positive of that? A I am positive of that. On Sunday he had a black suit with a pencil stripe possibly a half inch or inch wide in it.

Q That pencil stripe shows pretty good in the picture? A If you can see a stripe in that, you have better sight than I have.

Q Will you just take a look at that picture and see if in D. 2 you cannot see a pencil stripe on it? A Just faintly at the lapel.

Q Now, you have had a lot of experience with men in line-ups? A Quite some.



Q And your memory is pretty good about what people wear? A Fairly good.

Q And the gray suit that you saw on Tuesday— A I didn't say—it was a light suit.

Q A light suit looking entirely different from that on Tuesday? A Entirely different.

Q And that is your recollection of what Ruff wore on that day? A That is my positive recollection.

Q Do you know, as a matter of fact, that Ruff wore that suit for an entire week? A He didn't.

Q You never had in that line-up Pete Rogers? A No, no reason for it.

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

The Court: The answer is no.

Q Did you ever have Tony DePhillips in that line-up? A No.

Q Did you ever have a man named George in that line-up? A That is rather general.

Q Well, did you have a man known as George? A In that line-up that Sunday?

Q Yes, or in the line-up at which the Reid witnesses were present? A There may have been or may not have been.

Q Do you know George Bishop? A No, I don't.

Q Do you know whether Boudreau hung out at the Firestone A. C.

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Did you ever know whether Boudreau was a companion of Pete Rogers and DePhillips?

Mr. Fisch: I object.

The Court: Sustained.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you know whether he hung out with those men at the Firestone A. C.?

Mr. Fisch: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you ever question those men with regard to this case at all?

Mr. Fisch: I object.

The Court: Sustained.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.



Q Did you ever question Boudreau with reference to Pete Rogers and DePhillips?

Mr. Fisch: I object.

The Court: Sustained.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you ever question any other witnesses to the Reid hold-up with regard to any companions of Boudreau?

Mr. Fisch: I object.

The Court: I will sustain that objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you ever find out who the companions of Boudreau were after he was arrested?

Mr. Fisch: I object.

The Court: Sustained.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi

prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you ever find out whether Boudreau went around with any men who had a relative who was paymaster in the Reid company?

Mr. Fisch: I object.
The Court: Sustained.

Q Did you ever find out how Boudreau knew Condit?

Mr. Fisch: I object.
The Court: Sustained.

Q Do you know whether or not Boudreau hung out around the corner there of the Reid company?

Mr. Fisch: I object.
The Court: Sustained.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you question Boudreau about whether he did or not?



Mr. Fisch: I object.
The Court: Sustained.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

*Cross examination* by Mr. Kavanagh.

Q Now, captain, you sent for Little Joe Juliano and examined him alone in your private office in company with Lieutenant Kenny and Lieutenant Conlon, is that right? A Yes.

Q How many times did you send for him and examine him apart from the other three defendants? A Twice, I think.

Q When was the first time you sent for him? A I think the night of the 15th. Yes, I am quite sure it was the night of the 15th.

Q And how long after he had been arrested? A That I don't know, when he was arrested.

Q Well, do you remember what night it was and what day of the week it was when you first sent for him? A I think I spoke to him the Friday night, which would be the 15th.

Q Friday night? A Yes.

Q Are you sure about that? A Or it might have been Saturday night. I cannot recall exactly. I remember distinctly while he was in custody sending for him twice. Now, it might have been Saturday night or Sunday night.

Q And was that while he was in the line-up with the other three defendants and Boudreau?

A I think once was before Boudreau confessed. I am not sure, though.

Q What is that you say, captain? A I think it was after Boudreau confessed.

Q After Boudreau confessed? A Yes, sir.

Q Do you remember any conversation you had with Little Joe on the first occasion that you examined him privately in your office? A Do I remember the conversation?

Q Yes. A The substance of it I do.

Q Well, let me have the substance of it? A I told him that Myrtle Foster had told me that she lived in the same—

Mr. McGeehan: I object to anything that was said to him so far as the defendants I represent are concerned.

The Court: I will permit the captain's answer, but rule that anything said affecting your three defendants are not binding upon them and the jury will so understand that.

Mr. McGeehan: I except to the ruling.

Counsel for the defendants Louis Capozzi, Joseph Juliano and Christopher Barone pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Go ahead. A I told him, I said, "Joe, Myrtle Foster tells me she lives in the same house with you and on a certain occasion she came down stairs with Bobbie and that her and Bobbie were in the kitchen and you were just getting out of the bed in which Chille was in and



as you were walking into the room that they were in you said, 'Stick your head in or I will fill it full of lead.' He denied that and then I confronted him with Myrtle.

Q You say he denied it? A Yes, sir.

Q Will you tell the Court and jury the words that he used when he denied it, what did he say to you? A He said, "I did not."

Q And what else did he say to you? A That is all, very meekly and very quietly he said he did not.

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

Q Did you ask him any questions regarding the other defendants, did you ask him whether he knew any of the three other defendants—I am excluding Boudreau? A As to whether he knew them?

Q Yes. A I think I spoke to him Saturday afternoon and asked him how long he knew them.

Q Now, we are speaking of the private conversation that you had with Little Joe alone in the presence of Lieuts. Kenny and Manning, not what happened in the afternoon. A As to whether he knew those other three defendants?

Q Yes. Did you ask him if he knew the three defendants, Christopher Barone, Capozzi and Joe Juliano? A I remember speaking to him after Boudreau confessed.

Mr. Kavanagh: I object to that if the Court please and ask that it be stricken out as not responsive.

The Court: Answer the question, captain.

Witness: I don't know just when excepting that I fixed the time and that it was after that.

Q Didn't you ask Little Joe Juliano on the first occasion when you sent for him to examine him privately, in the presence of Kenney and Manning, didn't you ask him if he knew Capozzi and Barone? A No, sir.

Q And didn't he tell you at that time that he had never met those two gentlemen in his life? A No, sir.

Q And then didn't you ask him if he knew Big Joe Juliano? A No.

Q And didn't he tell you that he was a distant relative of his and that he had met him on a very, very few occasions? A Not at that time.

Q Well, didn't you examine him in that wise on that second occasion? A That was after the confession I questioned him.

Q After whose confession? A After Boudreau's confession.

Q That is what I am speaking about? A I was under the impression that before Boudreau confessed did I mention those names to him or did he know them?

Q Now, you know, captain, that before Boudreau confessed young Joe Juliano had been taken into custody, wasn't he? A I am not so sure as to whether he was or not, I know I spoke to him after Bobbie confessed.

Q You know as a matter of fact, captain, don't you, that he was not arrested until the alleged confession of Boudreau? A He was, that's right; he was arrested afterwards. He was arrested after twelve o'clock Friday night.



Q Now, did you make any threats to him, to young Joe Juliano at that time? A Threats, what do you mean by threats?

Q Did you threaten him in any manner, shape or form? A I do not quite grasp what you mean by threats.

Q You know what the meaning of the word threat is, don't you? A In what way was this?

Q Did you make any threats to him to confess his part in the alleged holdup? A No, sir.

Q Sure of it? A I am positive.

Q Didn't you try to intimidate him and say that he knew Chris Barone and that he should say that he knew this man Capozzi? A No.

Q Are you sure of that? A I am positive of that.

Q Didn't you tell him, "Now, here, Joe, you are a young man, why don't you say that you knew Capozzi, why don't you say that you knew Barone. If you do it will be all right, I will take care of you," isn't that a fact? A No, sir, that is not a fact.

Q And then when he said he would not do anything like that, that he did not know either of these men, then didn't you tell him that you would get the first place in the prison at Trenton to see him burn up in the electric chair? A Why, no, that is ridiculous.

Q Didn't you hear him say to you, "Captain, when you questioned him about Barone and this other man here Ruff, didn't you say to him 'Why don't you tell us all about that and we will take care of you. Why don't you corroborate the story of Boudreau and we will take care of you?' Didn't you say that to him? A I would take care of him?

*Frank E. Brex, cross.*

Q Yes. A No, sir.

Q And then didn't he say to you, "I wouldn't for anything in the world try to convict a man whom I know to be innocent," isn't that a fact? A No. I questioned him about his part in it.

Q Didn't you tell him that if he didn't corroborate Boudreau's story that you would send him to the electric chair? A I didn't.

Q Are you sure about that? A I am positive.

Q Now, when was the second occasion you sent for him? A I think that was on Saturday night or perhaps Sunday night.

Q And who was present at that time? A I think Sergeant Bell and Lieutenant Gannon.

Q And did you have any conversation with him at that time? A I did.

Q Will you tell us what you said to him? A I said I had heard he was living on a prostitute, that the prostitute had told me she was giving him the money she earned from prostitution.

Q What did he say to that? A He denied it.

Q Now, didn't you question him again about knowing Barone and Ruff? A No. I questioned him again about his part in the crime.

Q What did he say? A He would simply say at the termination of a talk in this manner, "I am innocent." Twice I had to ask him and he mumbled, "I am innocent."

Q And didn't he tell you that he had never met Barone and that he had never met Ruff at any time? A He didn't.

Q What? A He didn't.

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



*Frank E. Brex, re-direct.*

*Re-direct examination* by Mr. Fisch.

Q Now, captain, you said something in your response to the questions on cross examination of Little Joe's attorney with regard to a conversation that you had with Little Joe, in which you told him that Myrtle Foster had told you—had said that she heard Little Joe say something about pull your head in or I will fill it full of lead. A Yes.

Q And subsequent to that, did Myrtle Foster confront Little Joe in your presence?

Mr. McGeehan: I object to that as not being binding on the defendants and furthermore for leading the witness.

Mr. Kavanagh: I object.

The Court: As I understand the question, it only refers to Little Joe. I will overrule your objection.

A She did.

Q What did she say to Little Joe?

Mr. McGeehan: I object to this. These defendants cannot be bound by any conversation had with persons other than they.

Mr. Fisch: I will withdraw the question.

The Court: Of course, any conversations had between Little Joe and somebody else would be evidential against Little Joe.

Mr. McGeehan: But not against these three defendants.

The Court: No. I will limit its application to apply only to the person who has been named.

*Frank E. Brex, re-direct.*

Q What did Myrtle Foster say to Little Joe, and what did Little Joe say to her?

Mr. McGeehan: Same objection.

A I asked her would you repeat what you heard him say one day in the kitchen in his home and she said yes, and she said one time when Little Joe went down to Chille's room—

Q Who is Chille? A Chille is the paramour or sweetheart of Little Joe. Her right name is Katherine Daniels, and she goes by the name of Peaches at times. So she said she was seated at a table in the kitchen with Bobby and Little Joe came from the bedroom and as he walked into the kitchen where they were seated, he said, "Stick your head in, or I will fill it full of lead," and she said, "What do you mean," and he said, "You know I was in the Reid hold-up, I told them to stick their heads in."

Q And that is what Myrtle said to Little Joe? A And Little Joe said, "I didn't say it." She said, "You did say it."

Q Now, you said that they didn't, that the defendants did not change the positions in the line-up between the time one witness would identify them or go into identify them and the time another witness would go in to identify them. A That is right.

Q Now, were you in the room with the defendants during those times? A I am—excepting once when there was sort of a serious thing that happened in that line. I was momentarily out of the room.

Q Well, during the time you were always in the room, what did you say to them with regard to their positions in the line? A When the line was formed in my office, about twenty-four feet



*Frank E. Brex, re-direct.*

wide, the line being from one wall to the other wall, complete with persons all dressed, I said, "You fellows are privileged to take any place in the line you want to, the fact that you are standing where you are now, does not mean you cannot change, you can change from number six to number ten or wherever you want, you are going to get a fair and square deal;" I said, "I am not coming in the room. Now is your chance to change, not later, now don't start to holler and yelp 'Police frame-up' and all that old line of bunk," I said, "Now is the time to change, as a person goes out, change." I would repeat that every time, but none of them ever changed their position.

Q Now, did Big Joe Juliano or any of the other defendants say anything about those line-ups to anyone? A Yes.

Q Who, which one? A Big Joe.

Q And what did he say and to whom? A Well, he was identified—

The Court: By whom?

Witness: By Julius Dunning, of the Ward stick—

Mr. McGeehan: I move that that be stricken out.

The Court: Strike it out, and the jury will disregard it. Now, captain, you are to testify in this case only, and not in anything else.

Q He was identified by someone on Sunday? A Yes.

Q What did he say and to whom?

Mr. McGeehan: I object.

The Court: Sustain the objection.

Mr. McGeehan: I object to the prosecutor himself leading this witness.

The Court: Sustained.

Q Was Boudreau in that line-up? A He was two men away from him.

Q He was two men away from Big Joe Juliano? A Yes, sir.

Q Did Big Joe Juliano say anything to Boudreau at that time? A Yes, sir.

Q What did he say? A He became very excited and he said, "The God damn punk—

Mr. McGeehan: I ask that that be stricken out, the conclusion on the part of the witness that he became very excited.

The Court: Oh, that is evidential, you can tell whether a man becomes excited or not.

Witness: He said, "The God damn punk, the son-of-a-bitch, let me get at him, I want to die, I will kill him, kill me," he said "Beat me up," and he became so violent I ordered two men to take him out of the room and the line-up was held in abeyance for five or ten minutes and I put him in the record bureau and I went in and had a talk with him—

The Court: Never mind, captain, you have answered the question.

*Re-cross examination* by Mr. McGeehan.

Q Captain, he didn't say, "I will kill him," did he? A Well, "Let me at him, the God damn punk."



Q Didn't he say, "Kill me now, if you say I am in it, kill me now." A No, he turned on Boudreau and called him a "God damn punk and son-of-a-bitch."

Q And he called him a liar, too, didn't he? A No, he used the word "punk and son-of-a-bitch."

Q Didn't he say, "Where did you ever see me in your life?" A No, I walked over there and I was trying to pacify him, he was hollering.

Q Didn't he say, "Where did you ever see me in your life, Boudreau?" A No, he called him "God damn punk and son-of-a-bitch."

Q Captain, will you please, in your eagerness in this case, restrain yourself to the answering of questions. My question is not for you to repeat again what you have said again three times, but didn't he, in conjunction with everything that was said, but say to Boudreau, "Where did you ever see me in your life." A No, sir.

Q You swear he did not say that? A I did not hear it, in that loud manner of his, I remember distinctly he was making those remarks.

Q You do not say that he did not say to Boudreau, "Where did you ever see me in your life," do you? A I did not hear him say that.

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

Q And didn't he say, "They are all crazy, kill me now," didn't he say that and pull his shirt open? A I walked over to him and I said, "Stop that kind of language."

Q Please answer the question.

The Court: He has answered.

Q (Question read.) A No, sir.

Q Do you swear he did not say that? A A No, he said, "Kill me, kill me."

Q And did he tear his shirt open when he said that? A No, he was just gesticulating and gyrating, and roaring like a lion.

Q And he said they were all crazy at the time he said that, didn't he? A I didn't hear him say the word "crazy."

Q He denied that they were right, didn't he? A No, he called Boudreau two or three vile names and turned towards Boudreau, and I intervened.

Q How many detectives were there in the room, captain? A Why, probably ten or twenty.

Q How many outsiders were there, not detectives? A Probably eight or ten or twelve, I didn't count them.

Q So from twenty to thirty or forty people were there outside of those in the line-up? A How many?

Q Twenty to thirty? A No, sir.

Q You said ten to twenty detectives. A I might explain that proposition, they were guarding the various doors.

Q How many were inside then? A Probably eight or ten.

Q And how many outsiders were in there? A Probably ten or twelve.

Q That is about twenty to twenty-two people, in addition to yourself? A Yes, sir.

Q And this line-up was among them? A Yes, sir.

Q Do you mean to say he tried to get at that man then? A Yes, sir.

Q And he told him he was a liar when he did that, didn't he? A No, I did not hear him use the word "liar."





Q When he said "Kill me, kill me," didn't he tear his shirt open? A I heard him use a couple of vile terms and then he turned towards Boudreau and then I walked over to where he was and then I ordered two men to take him out.

Q When he said, "Kill me, kill me," did he pull his shirt open? A He kept raving and roaring—no I didn't see him pull his shirt open.

Q Do you think you may be mistaken about the words, "I want to kill him?" A That is my recollection of it.

Q Do you think perhaps you heard him say "Kill me, kill me?" A He did say "Kill me, kill me."

Q And do you think you may be mistaken about the words you think you heard, "I want to kill him," do you think you are mistaken in your recollection as to that? A I stated that he turned towards Boudreau.

Q My statement is do you think you may have been mistaken in your recollection as to whether he said that or not? A I don't think I said that he wanted to kill Boudreau, but he turned towards Boudreau and called him a couple of vile names and somewhat advanced to him, and then I rushed over and intervened and I shoved him in the corner.

Q Then he did not say, "I want to kill him?" A He said, "Kill me, kill me."

Q Then he did not say, "I want to kill him?" A Not that I remember.

Q Did you know in your direct testimony that you swore he did say that? A No, I did not, I don't.

CHARLES H. MARTENS sworn in behalf of the State.

*Direct examination* by Mr. Fisch.

Q Mr. Martens, you are mayor of the City of East Orange? A I am.

Q And have been for how long? A Eight years.

Q Were you present at police headquarters in Newark on Sunday, October 17th of this year? A I happened to be there, yes, sir.

Q And were you in the room at police headquarters where this line-up was held that we have been talking about in this case? A I was.

Q How many men were in that line-up, Mr. Mayor? A I think thirteen or fourteen.

Q And did you see the defendants in this case in that line-up? A I saw them in the line-up as they were pointed out, yes, sir.

Q Do you remember anything about their position in the line-up? A Why, I did not know any of them, any of the men or persons in the line until later I was told that these were the different people.

Q Were you present when some people came in and identified the defendants? A I was.

Q Was Captain Brex there at the time? A He was.

Q Did you hear Captain Brex say anything to these defendants with regard to the position of the line-up? A I heard him say, "Tell them, rather, if they wish to change their place during the interval when witnesses were coming in they might do so."

Q You heard him say that? A Yes, sir.

Q Did any of them take advantage of that and change positions? A Not to my knowledge.



Q Did you notice anything distinctive in the dress of these defendants as compared with the other people in the line-up? A No, I did not notice anything.

*Cross examination* by Mr. McGeehan.

Q You did not notice the clothes of any of them particularly, Mr. Mayor, did you? A No, I did not.

Q And they were pointed out to you by some of the detectives in there? A There were a group of detectives and several men from my department and they told me who the people were.

Q And you saw some people come in there, didn't you and point out the different men? A I did.

Q And whom would they be brought in by, how many people would come in with each one? A Why, it seemed to me a door on the right was open and they would go through and go out on the left.

Q And would they go in front of that line? A They walked in between—I was in the corner of the room and they walked in between me and the line, with their backs towards me.

Q And would they stop in front of the line, as a rule? A Some hesitated and walked through.

Q Would the detective walk through with them? A Oh, I don't remember they being with them, they were alone.

Q When they came through there you don't remember the faces of the people who made the identifications, I suppose? A No, they had their backs to me and I couldn't see them.

*Charles H. Martens, cross.*

Q You cannot remember who they were by seeing them here or otherwise? A I did not see any of them here.

Q The men were given an opportunity by the detectives then, Captain Brex, to take any position they wanted to? A They were. There was another gentleman there—I do not know his name—who also made the suggestion.

Q Now, do you remember when these men were pointed out to you what position they had in respect to each other, were they in a bunch together? A I only remember seeing Big Joe Juliano picked out. I was not in a position with the others to say that.

Q You do not know whether they were grouped with him or not? A I could not say.

Q You do not remember the persons from a building and loan association particularly coming in there?

Mr. Fisch: I object.

Mr. McGeehan: All right. That is all.

(Photograph offered in evidence and marked Exhibit S. 18.)

STATE RESTS.



*Motion for Direction of Verdict of Acquittal.*

Mr. McGeehan: I desire at this time to move for a verdict of acquittal as to the defendants Christopher Barone, Joseph Juliano, Louis Capozzi, on the ground that the evidence has not proved against them—the charge contained in the indictment.

Mr. Kavanagh: I move, your Honor, please, at this time, a direction of a verdict in favor of my client, Nicholas Joseph Juliano, on the ground that the allegations contained in the indictment against him are not in any ways sustained by the evidence adduced by the State.

The Court: Motions denied.

Defendants' counsel pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

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*Nicholas Joseph Juliano, direct.*

NICHOLAS JOSEPH JULIANO, sworn in his own behalf.

*Direct examination* by Mr. Kavanagh.

Q Where do you live? A 29 Aqueduct place.
Q And is your father and mother living? A Yes.
Q Have you any sisters and brothers? A Yes.
Q How many brothers? A Six brothers.
Q How many sisters? A Four.
Q Are they all living here in the city of Newark? A With the exception of one.
Q Where did she live? A In Elizabeth.
Q Are you married? A Yes.
Q When were you married? A I was married in July, 1920.
Q Where? A Madison, New Jersey.
Q What was your wife's maiden name? A Lorretta King.
Q And where do her parents live? A 4 McCullough avenue, Morristown.
Q Where did you live after you were married? A I lived at 29 Aqueduct place.
Q Newark? A Yes.
Q And where did your father-in-law and mother-in-law live? A At 4 McCullough avenue, Morristown.
Q Do you know of your own knowledge how long they have lived there? A No, sir, I don't know.
Q Do you know of your own knowledge how long your father-in-law and mother-in-law have lived in the City of Morristown? A I should judge fifteen or twenty years.
Q It might be longer? A It may have been.

The Court: He said he doesn't know.

Q What is your business? A I am a mechanical chauffeur.

Q And when did you first become a chauffeur? A In 1916.

Q And did you serve in the United States Army? A Yes.

Q When did you first join the United States Army? A 1916, April.

Q April, 1916? A Yes, sir.

Q Was that before the United States got into the World War, if you know? A Yes.

Q And where did you join the United States Army? A At a recruiting station, 23rd street, New York.

Q And you were accepted? A I was accepted and sent to Fort Slocum.

Q Not Governor's Island? A No.

Q Then I made a mistake to the jury? A Yes.

Q And how long were you at Fort Slocum? A About four or five years.

Q Where were you sent from Fort Slocum?

Mr. Fisch: I do not see that that is material. I object.

The Court: Sustain the objection.

Mr. Kavanagh: The reason I have for the minute questioning of this defendant in respect to the questions that I am now propounding to him, I want to connect up on later on some statements of this defendant's physical being that was brought about and caused by certain things that happened to him in certain places that he was.



The Court: Well, ask him directly those conditions.

Q Now, did you go to France when the United States got into the War? A Yes.

Q Do you remember when you got to France? A We left the pier at New York City the 23rd day of January.

Q What year? A 1917. On the Tuscania.

Q Did anything unusual happen on that voyage? A The fifth day of February we were torpedoed between the island and the Scotland coast.

The Court: Does he mean 1917?

Witness: January, 1918.

Q What happened on the 5th of February, 1918? A We were torpedoed between the island and the Scotland coast.

Q And the ship on which you were sunk? A Yes.

Q Did anything unusual happen to you at that time? A I was seven or eight hours in the water and then we were taken to the island.

Q And then were you rescued? A Yes.

Q You were taken to where? A The island.

Q Now, after your submersion for seven or eight hours in the water did you contract any sickness? A Well, I was frozen, it took about forty-two days to get me in a natural form again.

Q Were you in a hospital on the island? A Yes.

Q Where? A Belfast.

Q How long were you in the hospital? A About 38 or 39 days.

Q Did you finally recover in a way? A Yes.

Q And were you sent to France? A Yes.

*Nicholas Joseph Juliano, direct.*

Q How long were you in France? A I was in France twenty-four months, overseas altogether.

Q And were you in France after the Armistice was declared on November 11, 1918? A Yes.

Q How long were you in France after that? A I think the latter part of 1919.

Q Were you in Germany, too? A Yes.

Q When did you return home, when were you mustered out in the United States? A The latter part of 1919.

Q What part of 1919, what month? Well, as near as you can tell? A Say the winter or summer, October.

Q Where were you mustered out? A Camp Merritt.

Q Up in Bergen County, is that right? A Yes, sir.

Q Did you participate in any battles in France? A Yes, sir.

The Court: Do you want to know whether he was injured?

Mr. Kavanagh: Yes.

The Court: Ask him specifically whether he was or not.

Q Were you injured in any of the battles in which you participated in France? A Yes, I was gassed and wounded.

Q And were you in a hospital in France for any length of time? A Yes, sir.

Q How long? A I was in, when I was gassed, for fourteen days.

Q Whereabouts, at what hospital? A At the Hopkins Association.



*Nicholas Joseph Juliano, direct.*

Q What is the name of the town in France? A Baswyle.

Q And were you in any other hospital in France? A Yes, sir.

Q How long? A About twelve days.

Q What hospital was that? A That was the hospital at Bar le Duc.

Q When you returned from France you were married, were you, to the young lady, Miss King, is that right? A No, sir.

Q Well, you were married in the first part of 1920, weren't you? A Yes, sir.

Q What was your business, what business did you take up after you returned from France and after you were mustered out of service? A I worked for J. C. Canniffe about a year and a half.

Q Doing what? A Driving a truck.

Q And where did you go to work after that? A I was sent to the New Jersey State Prison.

Q You were convicted for having some heroin or being in company with someone who had heroin? A Yes, sir.

Q And you served a term in State's Prison for that? A Yes, sir.

Q For how long? A Two to three years.

Q Now, after you were released from prison what business or occupation did you take up? A I had taxicabs going in the City of Newark.

Q And did you give that up for any reason? A Yes, sir.

Q What was the reason? A I could not stand the night work, it was too heavy for me.

Q Was that due to your physical condition or otherwise? A Yes, the night air did not agree with me.

Q What was the trouble with you, as regards your physical condition? A Why, I seemed to

suffer always with my lungs, I would have a little cold and I would cough and be keeping spitting up blood.

Q And you were attended by doctors, were you? A Yes, sir.

Q And they recommended that you give up that kind of work, did they? A Yes, sir.

Q Were you working in June of this year? A No, sir.

Q Why weren't you working? A I was sick, sir.

Q What was the last job you had of any kind, up to July of this year, the last job you had to give up? A I worked for Avalon.

Q Is that a company, a firm? A Yes, sir.

Q Where is their business? A He has got a place on Drift street.

Q Drift street in the City of Newark? A Yes, sir.

Q What is their business? A Trucking.

Q And were you a chauffeur? A Yes, sir.

Q When did you give up your job as a chauffeur—driving a large truck, I presume? A Yes, sir.

Q When did you give up your job as a chauffeur for Avalon? A I only worked for Avalon for about a month and I gave it up in the middle of June.

Q In the middle of June this year? A Yes, sir.

Q Did you have any occasion to or were you advised by anyone to go to the country? A Yes, the doctor advised me to go there.

Q On account of your condition? A Yes, sir.

Q Now, Mr. Juliano, as the result of that advice, did you go to the country? A Yes, I went to the country three or four days a week.



Q Where did you go to? A I went to Morristown, New Jersey.

Q And where in Morristown, did you go to? A I went to my mother-in-law's, Mrs. King's house, 4 McCullough avenue.

Q What is her address? A 4 McCullough avenue.

Q And whom does your father-in-law's and mother-in-law's family consist of? A Why, there is Miss Anna King, Miss Frances King, Mr. King and Mrs. King, those were at home, and she has got another daughter by the name of Marion King and a son by the name of James King.

Q And do they all live in Morristown? A Yes, sir.

Q Do you remember when you first started to go to Morristown? A Yes.

Q When? A On Decoration Day.

Q What does your father's house consist of, is it a whole house? A It is a big apartment house.

Q You say you first went to Morristown around Decoration Day of this year, is that right? A Yes, sir.

Q How long did you remain there at that time? A Why, different times I used to stay up there a week, and sometimes two and three days.

Q And you went from Newark to Morristown, I presume? A Yes, sir.

Q Will you tell the means of transportation by which you went? A I would drive up with my car, sir.

Q And who generally drove up with you when you went from Newark to Morristown on your weekly visits there? A My wife.

Q Nobody else? A No, sir.

Q Now, coming down to the 8th day of July of this year, the 8th was on a Thursday—

Mr. Kavanagh: Is that admitted, Mr. Prosecutor?

Mr. Fisch: If the calendar says so, it is.

Mr. Bigelow: The 8th was a Thursday.

Q Where were you, if you know, on the 8th day of July? A The 8th day of July I was home to my mother's house.

Q You were home? A Yes.

Q Did you go to Morristown around the 8th day of July? A I went to Morristown the week after, Saturday night.

Q Saturday night? A Yes.

Q And what date was Saturday night? A Wednesday was the 8th.

Q Thursday was the 8th. A Saturday would be the 10th.

Q Now, do you know where you were on the morning of the 10th of July, Saturday the 10th? A I was home at my mother's house sleeping.

Q And who were home at that time? A My mother, my sisters and brothers.

Q What are their names? A Why, Anthony, James, Frank, Minnie and my mother.

Q And what time did you go to bed on Friday night? A About twelve o'clock.

Q Did you meet anybody on Friday? A No, sir.

Q Did you meet any man named Boudreau on Thursday, July 8th? A I didn't know him, sir.

Q And did you meet any man named Boudreau on Friday, July 9th? A I didnt' know him.

Q Did you meet any man named Boudreau on Saturday, July 10th? A I didn't know him.



Q Now, referring to Saturday, July 10, you say you went to bed at midnight, on a Friday night, is that right? A Yes.

Q And you got up at noon, the following morning? A Yes.

Q Do you know why you slept so late on Saturday morning? A I was not feeling very well. I had a heavy—

Q What was the matter with you? A I had a heavy cold.

Q And is that the reason you slept so late? A No. As a rule I very seldom get up before twelve o'clock.

Q Do you remember where you went to after you got up out of bed and what you did on the afternoon of July 10, Saturday, July 10? A Yes.

Q Tell the Court in detail without further questioning on my part. A I got up and I had a bite to eat and I went to the barber's and got shaved and there I met my brother Frank. He was getting shaved there, so he asked me while we were getting shaved, he said, "My wife is not feeling very well," he said, "Will you come over after she closes down the restaurant and take her out for a ride for a few hours." I said, "I cannot do it tonight, Frank, I have got to go to Morristown, you know I go up every week-end," and so he says, "You can come up and take her out for an hour," and I said, "All right, if you insist," and he come up to my wife's house, and I told my wife about it, and he and my wife and his wife went out and I took them home about half-past ten, and my wife and I went to Morristown. We got up to Morristown about half-past twelve.

Q Did Frank make you a present that day, July 10th? A Yes.

Q What? A He bought me a suit of clothes.

Q Do you know where he bought it? A Yes, the People's Clothing Store on Market Street.

Q When was it delivered to your house? A It was to be delivered to my mother's house, but we met the messenger up on Aqueduct place, and we got the suit.

Q Were you at a club on Drift street on Saturday, July 10, at all? A No.

Q Were you in that club on the evening of Saturday, July 10? A No, sir.

Q At any time? A No.

Q Were you in that club at any time on Friday, July 9th? A No, sir.

Q Were you in that club on Thursday, July 8th? A No.

Q What was the last time that you remember, Mr. Juliano, that you were in that club on Drift street prior to Thursday, July 8th? A The last time I was in the club was about July 4th.

Q And why do you say that was the last time? A July 5th, rather, because we went to the ball game.

Q Who went to the ball game with you? A I and Victor Grant and Abe Long, my brother Frank and little Red.

Q What ball game did you go to? A We went to Jersey City.

Q And what time did you start from the Club on July 5th? By the way, July 4th was celebrated July 5th? A July 5th.

Q Because July 4th was on Sunday and it was celebrated on Monday? A Yes.

Q What time did you leave the club that day? A We left the club, I should judge about half-past twelve.



Q Were you in the club on the evening of July 10th at any time? A No.

Q Were you in the club on the evening of July 11th, Sunday? A No.

Q Were you in the club on the evening of July 12th, Monday? A No.

Q Were you in the club on the evening of July 13th? A No.

Q Or at any time during the different days I have just set forth? A I would go up there sometimes, but not them dates, no, sir.

Q Or at any time during the different days that I have just set forth? A I would go by there sometimes, not during those days.

Q Just a moment, did you understand, or at any time during any of those days that I have just set forth? A No, sir.

Q You say you took your sister-in-law, your brother Frank and your wife for a ride on Saturday afternoon. A Saturday evening.

Q Where did you leave from? A We went over to his restaurant.

Q What number? A Central avenue.

Q What is the number? A I cannot tell you the number, it is between Bergen street and the street down to the left of Bergen.

Q And the four of you were driving? A Yes, sir.

Q Where did you go to? A Up around Eagle Rock, around Singac and up in around there, and around the back way and back home.

Q Did you stop anywhere during the course of the ride? A We stopped and had some frankfurters and hot dogs and stuff like that.

Q What time did you return to Newark? A About quarter-past ten.

Q Now, where did you stop when you returned to Newark? A I stopped at Burnet street.

Q Why did you stop at Burnet street? A To let my brother and his wife off.

Q At their residence or at the restaurant? A At their residence.

Q And who was left in the car with you at the time you left your brother and your sister-in-law off? A My wife.

Q And that, you say, was about quarter-past ten, is that right? A Yes, sir.

Q On Saturday night, July 10th of this year? A Yes, sir.

Q Where did you go after you left your brother-in-law off at Burnet street? A Right up Central avenue, over Grove street out Seven Bridge Road, clean up through Madison, up to Morristown and I went to my mother-in-law's house.

Q Did you pick up anybody on the trip? A No, sir.

Q What time did you arrive at your mother-in-law's house? A About ten or five minutes to twelve.

Q Now, whom did you find at home, at your mother-in-law's home when you and your wife got there? A I found my mother-in-law and two sister-in-law's in bed sleeping.

Q What are the names of your sisters-in-law? A Anna King and Florence King.

Q Did you go immediately to bed, you and your wife? A No, we had a few sandwiches and a cup of coffee and went to bed about one or a quarter-past one.

Q Who prepared the sandwiches? A Mother.

Q You mean your mother-in-law? A Yes, sir.



Q What time did you get up the following morning? A About ten or eleven o'clock.

Q What did you do after you got up? A Got up and had a bite to eat, started reading the papers and took a little ride in the afternoon, went to Bernardsville and back.

Q And who went riding with you on the afternoon of Sunday afternoon, July 11th? A Anna King and Florence King.

Q What time did you come back from Morristown after you left Newark on July 10th, what time did you return back to Newark? In other words, how long did you remain in Morristown? A I stayed up there one week, that week.

Q And when did you come back to Newark, when did you come back to Newark again? A Thursday or Friday.

Q Thursday or Friday? A Yes, sir.

Q Now, that was about the 16th or 17th of July, isn't that right? A Yes, sir.

Q Now, Mr. Juliano, do you remember where you were on Saturday the 16th of July? A Yes.

Q Where were you? A I came home and got a suit of clothes took a bath and went to the barber and I came back and went to Morristown again.

Q Did your wife come down with you? A No, sir.

Q She did not come down with you? A No, sir.

Q Now, what time did you return to Morristown, on Saturday, the 17th of July? A I should judge around 10:30 or eleven o'clock.

Q What time did you get down from Morristown on Saturday morning, do you recall? A About half-past two in the afternoon.

Q Where did you go to? A I went home and got my clothes and took a bath.

*Nicholas Joseph Juliano, direct.*

Q When you speak of home you mean your mother's house? A My mother's house.

Q At 29 Aqueduct alley? A Yes, sir.

Q By the way, I forgot to ask you, when you were not stopping with your wife's parents at Morristown where did you stop in Newark, in the same house that your mother lives?

Mr. Fisch: He testified, if the Court please, that he lives at Aqueduct place.

The Court: That is not the question. Answer the question.

A I lived at my mother's house, Aqueduct place, 29, sir.

Q You had a room there? A I had a room there, yes, sir.

Q What time did you return to Morristown on the evening of July 17th? A Between 10 and 10:30.

Q And did you see a man named Boudreau that evening or any time during that day? A I don't know him, sir.

Q You don't know him at all? A No, sir.

Q What direction or what route did you take back to Morristown? A I went up the back way, I went up to Park avenue, up through St. Cloud hill, out through the mushroom farm and right straight out to Whippany.

Q What time did you arrive at Morristown? A I arrived at Morristown between 10 and 10:30.

Q And did you go right to bed? A No, sir.

Q What time did you go to bed that night? A About 12:30.

Q And who were in your mother-in-law's home when you got to Morristown that night,



*Nicholas Joseph Juliano, direct.*

July 17th? A Why, they were all there waiting for us, my mother-in-law, my two sisters-in-law, Dad, waiting for me to get back.

Q Waiting for you to get back? A Yes, sir.

Q Did you go to bed right away? A No, sir.

Q You had something to eat, did you? A Yes, sir.

Q Who prepared it? A My mother-in-law.

Q What time did you go to bed that night? A Around one o'clock.

Q Now, the following day or Sunday, do you remember what time you got up in the morning, on Sunday morning July 18th? A About eleven o'clock.

Q And did you have your dinner at that time? A No, I had a little lunch.

Q What did you do in the afternoon? A Sat around the house playing the piano, or trying to play it.

Q Who was sitting with you around the house? A My wife and two sisters-in-law and dad.

Q And you did not go driving that afternoon? A We went driving for about an hour.

Q Where did you go? A We went to Bernardsville, and from Bernardsville, we cut over to Dover and came home.

Q What time did you return home? A About 5:30.

Q What did you do on that Sunday evening, July 18th? A I came home and washed up and sat around the house, and we had dinner about seven or 7:30. After dinner my mother-in-law and my two sisters-in-law, my father-in-law and my wife and myself went out riding.

Q Where did you go? A We came down to Springfield, at the junction there; there is a hotel there.

Q What is the name of the hotel? A I could not state. It is right at the junction. We had a few glasses of beer.

Q What time did you leave Morristown that evening, July 18th, to go to Springfield? A About nine o'clock.

Q Do you know what time you got to Springfield to this hotel? A About ten or a quarter-past ten.

Q And you say you had sandwiches there and lunch? A Yes.

Q Who were in that party? A My father-in-law, mother-in-law, my two sisters-in-law, my wife and myself.

Q And you came in the car, did you? A Yes.

Q What time did you return back to Morristown? A About twenty minutes past twelve.

Q And did you go to bed? A Yes.

Q What time did you go to bed? A About 1:30.

Q What time did you get up on the morning of July 19th, 1926? A About a quarter to twelve.

Q A quarter to twelve, and where were you sleeping on the night of July 18th, and the morning of July 19th, 1926? A I was sleeping at my mother-in-law's home, Morristown, New Jersey.

Q What is the address of their home? A 4 McCullough avenue.

Q And who were in their house that night? A My father-in-law, my mother-in-law, my two sisters-in-law, my wife and myself.

Q Were you in the City of Newark at or about the Reid Ice Cream Company's plant situated on Mt. Pleasant avenue on the morning of July 19th of this year between the hours of 9:30 and 10:30? A No.



Q Were you in the City of Newark at all on that day? A No.

Q Did you meet a man named Boudreau around seven o'clock that morning—did you call for him in a car and meet him and meet three other men and go to the Reid Ice Cream Works? A I didn't know him, sir.

Q Did you know any of these three, Big Joe Juliano, Joseph Juliano, Louis Capozzi or Christopher Barone, prior to July—before July, 1926? A I knew my cousin for about twelve or thirteen years.

Q Were you familiar with your cousin, Big Joe Juliano? A No.

Q Did you ever associate with him or go around with him? A No.

Q Or were you connected in business with him at any time? A No.

Q At any time prior to July 19, 1926? A No.

Q Did you ever go to any place of amusement or hang out with him or associate with him or be in his company with him at any time prior to July 19th? A No, sir, there is only one time. I took him from Drift street to Treat place.

Q And when was that? A That was in October.

Q Or subsequent to July 19, before you were arrested, did you ever hang out with him, or were you familiar with him, or hang out with Big Joe Juliano? A I knew him to speak to and held a conversation with him, but we never went any place together.

Q Do you know how often you used to meet him? A Well, sometimes every day or so in Newark.

Q But you were never familiar with him or hung out with the people with whom he went out with? A No.

Q In other words, you were not associated with your cousin, Big Joe Juliano, in any manner, shape or form except that you casually met him, is that right? A Yes.

Q Now, I call your attention to Mr. Christopher Barone. Did you know him prior to July 19 of this year? A Not to speak to.

Q Had you ever spoken to him; were you ever introduced to him? A No.

Q Did you know him by sight? A I knew him by sight, yes.

Q Will you tell the Court and jury how you come to know him by sight? A I used to see him with my cousin, Joe, and the first time I seen him I asked one of the boys who is that with Joe and he said Chris Barone, Buck Barone's brother.

Q And he is a prize fighter? A Yes.

Q Now, were you ever familiar with Christopher Barone, I mean in the sense of hanging out with him? A Well, no, I only was once. I saw Chris Barone and spoke to him and that was at a gasoline station at North Newark. I was filling my car up with some gas, and this was about the middle of September.

Q Of this year? A Of this year.

Q Now, referring to Mr. Capozzi, did you know him at all prior to July 19th of this year? A I knew him to see about two months—two and a half months.

Q Did you ever associate with him? A Never.

Q Hang out with him? A No.

Q Hang out with any persons or people that he hung out with? A No, sir.

Q Now, Mr. Juliano, you said that you never knew this man Boudreau at any time prior to July 19th, 1926, is that correct? A Yes.



Q Did you ever, nine, ten, or eleven days before July 19th, voluntarily introduce yourself to him while he was in a certain club up on Drift street, did you ever introduce yourself to him? A I never saw him.

Q Did you for nine or ten or eleven days before July 19th voluntarily introduce yourself to him while he was in a certain club up on Drift street, did you ever introduce yourself to him? A I never saw him.

Q Now, do you know, as a matter of fact, Juliano, when you first became acquainted with this defendant Robert Boudreau? Do you know, is the question? Or do you remember when you first became acquainted with him? A Yes, sir.

Q Now, without any further questioning on my part, will you kindly narrate to the Court and to the jury how you became acquainted with Boudreau and all the circumstances attending it. A About three or four fellows and myself, one of them was named James Caprio and William Russomanno, myself and a fellow by the name of Johnnie, we were out taking a little ride and we decided to go cabareting. We went cabareting and we wound up in a place on Market street, the Riverside Restaurant. We went in there, and there was a girl that they called Chille. I later found out that her name was Kathleen Daniels, and there I got acquainted with this Kathleen Daniels. After I got acquainted with her, about a week, possibly a week and a half she introduced me to Robert Boudreau as her brother. She said, "I want to present you to him under the name of Billy, because his wife," as she said at that time, "Used to go with a fellow by the name of Kid Juliano" and she didn't want him to know my name was Juliano because he was

very jealous, and she didn't want him to know that my name was Juliano, so I let it pass at that, so she introduced me to him the latter part of August or the first week in September; she introduced me to him as her brother and my name was supposed to be to him at that time as Billy, and that is the first time I ever seen Robert Boudreau.

Q And can you fix a date when you first met Boudreau under the introduction that you have just narrated now, when was it, can you approximately give us the date? A I cannot exactly give you the date, but I can give you within a week of it.

Q Go ahead, let us have it. A As I said before, it was the latter part, between the 28th of August and the 5th of September.

Q How do you fix that in your mind as being the date the first time that you met Boudreau, how do you fix that in your mind, if you can fix it? A Because I and James Caprio was supposed to take two young ladies to Virginia; they wanted to go, and we were going to Virginia; they wanted to come, and we were supposed to go down there for Labor Day; that fell on the 7th, I think, of September, and somehow or another we did not go, and I know that I did not meet that young lady, the only time I met her was about a week or a week and a half before that time and I knew that I knew her just about one week or two weeks myself before she introduced me to him.

Q How long was it after this episode in the Riverside Cafe that the young lady whom you met there under the name of Chille introduced you to Boudreau whom she called her brother? A About a week or a week and a half.



Q Now, what happened at the time that you received this introduction from Boudreau from the young lady who represented him as her brother, what happened that time, did you have any conversation with him? A Why, yes, he called his wife down and she also was introduced to me under the same condition and we stood there talking about five minutes and he invited me to his house, he said, "Come and have dinner some time."

Q To his house, where did he live? A 16 Ogden street.

Q Well, was that the place where you were introduced to him? A Out in the middle of the street, yes, sir.

Q And as the result of this invitation did you call at 16 Ogden street? A Three or four days later, I did.

Q And whom did you meet there, if you met anybody? A I met Boudreau and his wife.

Q Did you have any conversation with him at that time? A No, sir.

Q Now, Mr. Juliano, did you go to live or take a room at 16 Ogden street at any time? A Yes, sir.

Q Will you tell the Court and jury when you did that and the circumstances attending it and so on? A Yes, sir, this Kathleen Daniels took a room there, I should judge, in September sometime and I used to call there quite frequently; I used to go there, in fact, most every day, some days when I went there I should judge, about three weeks after I lived there, Robert Boudreau came to me one day and he says, "I and Antonio Illario and a fellow by the name of Texas—

Mr. Bigelow: I object to that.

The Court: No, we won't have that.

Q Leave that out.

The Court: Just answer the question.

A Yes, I did.

Q Now, did you ever have any conversation with Boudreau while you were at 16 Ogden street? A Quite a number.

Q Did he ever invite you to go with him to Long Island on any stick-up?

Mr. Bigelow: I object to that.

The Court: Sustained.

Counsel for the defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY.
(SEAL) Judge.

Q Now, Mr. Juliano, coming back again to the week of July 18th when did you return back from Morristown that week? A I came back on Wednesday afternoon.

Q Did your wife come back with you? A Yes, sir.

Q What time did she come back? A About 2:30 in the afternoon.

Q Now, did you go back to Morristown the following week-end? A Yes.

Q And when did you stop going to Morristown? A About the middle of August.

Q Why did you stop going there? A Well, I was doing a little work.

Q What did you do? A I had a few private occasions—I hired out my car on christenings and weddings and private affairs.





Q And now, Juliano, did you ever at any time have any quarrel with Boudreau? A Yes, I had words with him.

Q Words with him? A Yes.

Q When was it that you had words with him? A Well, about the middle of September, I should judge, the latter part of September, he called up on the telephone and he asked me to come to his house immediately. I did so. When I got there I found Miss Foster's aunt and relations there, and right away he jumped on me and he said I forged a $90 check, he said, "Can you help me out in any way"; I said, "No, Bob, I am sorry, I can't. I haven't got any money."

Q What did he say? A And he told me that he had forged a check when he was on a trip to Colorado, and I told him I was sorry, but to get the people who he forged the check with, because I had no money.

Q Did he say anything to you when you told him that? A No.

Mr. Fisch: I object.

The Court: I thought we were going to hear about a quarrel, some words?

Mr. Kavanagh: I don't know, I am asking him what difficulties they had.

The Court: Your answer is not responsive.

Q Did you have any other difficulties? A Not that I recall.

Q At any time? A No.

Q Did Boudreau at any time, during your acquaintance with him, threaten you, Mr. Juliano? A Why, yes, he did, up in Nutley.

Q What did he say to you, what were his threats?

Mr. Bigelow: I object to this. Boudreau, while he was a witness, I do not think he was asked about threats made to this defendant.

The Court: The proper foundation has not been laid with Boudreau.

Mr. Kavanagh: I asked Boudreau if at any time he had a quarrel or argument or fight with Mr. Juliano, and he said no.

The Court: No, he said he had words over a girl; that this man hit some girl and he resented it and that is what he meant by words.

Mr. Kavanagh: And then I asked Boudreau at that time if he had ever threatened to get Juliano and he denied it, and I think I have a right—

The Court: Well, ask him specifically. You have a right to ask, but give us some time and place.

Q Now, do you remember any time after you became acquainted with Boudreau whether he made any threats against you? A Why, no, outside of what he heard, I have heard people—

The Court: Don't tell us that. Strike it out.

Q Did he make any threats to your face, not what you heard? A No.
Q You are sure of that?

Mr. Fisch: I object to this leading the witness.



Mr. Kavanagh: I will withdraw that last question.

Q Now, Juliano, do you remember when you were arrested? A I was arrested Saturday night.
Q Do you remember the date? A October 15th or 16th.
Q And what time of the day were you arrested? A Three o'clock in the morning.
Q By whom were you arrested? A I could not say who they were.
Q And where were you when you were arrested? A I was home sleeping in my mother's home.
Q 29 Aqueduct alley? A Yes.
Q Was your wife home that night? A Yes.
Q And she was sleeping with you? A Yes.
Q And about what time in the morning were you taken out of your bed? A About three o'clock, three-fifteen.
Q And where were you brought? A To police headquarters.
Q What happened to you at headquarters when you were brought there first? A Well, they just took me down and kept me in a room there, and that's all I know, and later on, about nine o'clock in the morning, they sent me to the First Precinct and then about 2:30 or three o'clock in the afternoon they took us back to headquarters, and I asked them, "what am I here for, what have I done," and they said, "Oh, you will find out."
Q Who did you ask? A Why, Kenny and Manning, I think; I do not know. Is that Manning?
Q Mr. Manning, Mr. Kenny's partner, is that who you mean? A Yes.

Mr. Fisch: Are you indicating this man here?

Witness: Right in back of the assistant prosecutor.

Mr. Fisch: That is Detective Thomas.

Q Now, you were put in a line-up at headquarters, weren't you? A Yes.

Q What was the first time you were put in a line-up? A Saturday afternoon.

Q What time? A I could not just tell you what time it was.

Q Then you were put in another line-up? A Yes.

Q When? A Sunday.

Q Afternoon or evening? A I couldn't just say.

Q Well, don't you remember? A No.

Q If you don't remember, say no. A I don't remember.

Q How many other line-ups were you put in, were they the only two, or were there more? A I do not recall whether there were one or two more; I am not certain.

Q You are not sure? A No.

Q It might have been only two and it might have been three or four, is that right? A Yes.

Q Now, after these different line-ups you were brought in to the office of Captain Brex, were you? A Yes, sir.

Q Were any of these other three defendants, Joseph Juliano, Louis Capozzi, or Christopher Barone brought with you? A No.

Q You were there alone, weren't you? A Yes, sir.

Q Do you remember the first time you were brought there? A Yes, sir.



Q When was it? A About a week after I was arrested.

Q About one week after you were arrested? A Yes, sir.

Q That would be Saturday, October 22nd, or thereabouts? A In around there, yes, sir.

Q And during that week you lay in police headquarters, is that right? A Yes, sir.

Q All the time? A Yes, sir.

Q Now, who were present the first time when you were alone taken to Captain Brex' office, who were present in that office? A Captain Brex, Kenny—

Q Don't say "Kenny"; Lieutenant Kenny, he has a title. A Lieutenant Kenny and Sergeant Thomas.

Q Was anything said to you at that time? A Why, yes.

Q Who spoke to you, Mr. Juliano? A Captain Brex.

Q What was the first thing he said to you? A He asked me did I know anything about this stick-up and I told him, "No, sir, I do not" and he said, "Yes, you do, you know you do," and I said, "I am sorry, I would only be too glad to tell you," so I did not know nothing and then he said to me, "Well," he said, "Boudreau confessed that he was with you." I said, "I don't know Boudreau," and well, he kept asking me questions.

Q Well, I want to know the questions that he asked you. A He said, "Well, you might as well save yourself, you are going to burn up and I am going to get a front seat and see you burn up" is the very words he said to me.

Q And what did you say to him in return? A I said, "I am sorry, if you want to see an innocent man burn up, I am ready to burn up."

Q Did he say anything to you about your cousin Big Joe Juliano, Christopher Barone and Louis Capozzi?

Mr. Bigelow: I object to that, I don't think that statements by Captain Brex are binding on the State or that there was any testimony brought out by the State as to conversations by Captain Brex with this defendant.

The Court: Objection sustained.

Mr. Kavanagh: I asked an exception, if the Court please, I think it is very material, and I will tell your Honor the reason why. On cross examination of Captain Brex this afternoon I asked him if he did not promise young Joe Juliano, this present witness—

The Court: Well, that would be very well if you were trying to break down a confession, but there is no confession here.

Mr. Kavanagh: I know, it is a confession of Boudreau.

The Court: Yes, but not this man.

Mr. Kavanagh: Any way I ask an exception to your Honor's refusal.

The Court: You may have it.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY.
(SEAL) Judge.

Q Now, Mr. Juliano, you say that Captain Brex made certain threats to you that afternoon or evening, whichever it was, in the presence of Lieutenant Kenny and the other sergeant—what was the sergeant's name, Thomas, is that right? A Yes, sir.



Q Did he make any promises to you that afternoon that if you corroborated Boudreau that Christopher Barone and Big Joe Juliano and Capozzi were there that he would get you off?

Mr. Kavanagh: I object to that.

The Court: Sustained.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY.
(SEAL) Judge.

Q Did he make any promises to you of any kind that afternoon? A Yes, sir.

Q What were the promises that he made?

Mr. Bigelow: I object.

The Court: Sustained.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY.
(SEAL) Judge.

Q Now, Mr. Juliano, did he say anything else to you, did Captain Brex say anything else to you that afternoon?

Mr. Bigelow: I object.

The Court: Sustained.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL.) Judge.

Q As the result of this questioning by Captain Brex and Lieutenant Kenny and Sergeant Thomas, did you make any statement to them as to your guilt or innocence of this alleged crime? A I am innocent of this crime, and I made a statement—

Q What did you tell them?

Mr. Bigelow: I object.

The Court: Sustained.

Mr. Kavanagh: I ask an exception.

The Court: On what ground?

(No response.)

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you make any replies to the questions that they propounded to you that afternoon? A Yes, sir.

Q What replies did you make?



Mr. Bigelow: I object to that as not material.

The Court: Sustained.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, any way, when you refused to corroborate Boudreau they dismissed you from the room?

The Court: Just a minute, Mr. Kavanagh, don't you understand English?

Mr. Kavanagh: Oh, yes, sir.

The Court: Well, then, understand my rulings. You cannot ask questions over and over again when I have sustained an objection.

Mr. Kavanagh: I ask an exception.

The Court: There is no question at this time.

Counsel for defendant, Nicholas Joseph Juliano, prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q How long were you kept in that room by Captain Brex and the other men that afternoon? A About forty-five minutes or one hour.

Q Did they say anything to you when you were told to go out of the room?

Mr. Bigelow: I object to that, whatever they said.

The Court: That is practically the same.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Anyway, you left the room, didn't you? A Yes.

Q Did you leave the room of your own volition or were you told to leave it? A I was told to leave it.

Q By whom? A By Captain Brex.

Q What did he say to you when he told you to leave the room?

Mr. Bigelow: I object.

The Court: Mr. Kavanagh evidently does not understand.

Mr. Kavanagh: Yes, I do.

The Court: Well, I have ruled, and if you do it deliberately, then we will have to do differently.

Counsel for Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.



Q Were you brought a second time to the office of Captain Brex? A Yes.

Q When? A About a day or two later.

Q And who were present on that occasion? A Captain Brex.

Q Anybody else? A As far as I can remember.

Q What happened on that occasion?

The Court: These questions are too general. If you want to ask questions concerning the identification you are at liberty to do so, but be specific in your questions and do not ask a general question that might have nothing to do with this case.

Q On the second occasion, were you questioned by Captain Brex? A Yes.

Q What did he say to you?

Mr. Bigelow: I object.

The Court: Sustained.

Counsel for Nick Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, Mr. Juliano, did you ever make any threats against Boudreau at any time subsequent to the time that you met him in September of this year? A No, sir.

Q Did you make any threats that if he squealed or said anything about the Reid hold-up that you would not get him but somebody else would get him? A Why should I say that? I

did not do nothing and I do not know what he done, and I had no reason at all whatsoever to give him any threats.

Q Did you have any participation by act, deed, knowledge or otherwise in this Reid stick-up affair on the morning of July 19 of this year? A No.

Q What was the first time—do you recall when it was that you learned for the first time that there was a hold-up of the Reid Ice Cream Company building and the men shot on July 19th? A It was on a Tuesday evening.

Q Tuesday evening? A Yes.

Q Do you remember the date? A I think it was the 20th day of July.

Q The 20th day of July, on a Tuesday, you say, you first learned that there had been a hold-up at the Reid Ice Cream Company? A Yes.

Q And where were you when you first learned of that hold-up? A I was in Morristown.

Q And will you tell the Court and jury the circumstances as to the place, and so on, when you first learned of that hold-up? A Yes.

Q All right. Just tell it. A I was in Morristown, New Jersey, and when I am up there, I go up and get my father-in-law up at the Electric Alloy at Morristown, he works there. And as I went and met him, I met him at six o'clock and he threw me the Newark News and he said, "I hear they have done a pretty big robbery in Newark," and I said, "I will read about it as soon as I get home," and when I did read about it, and seen it was the Reid Ice Cream Company, I said, "the men who did that crime should be hung up and strung." That is the very words I said to my father-in-law. That is the first time I heard about the Reid Company being held up.



Q Where is the Electric Alloy works? A Morristown.

Q Is that where your father-in-law is employed? A Yes.

Q What time was it on the evening of July 20th that you met him? A Six o'clock.

Q That was the time he was getting off from his work? A Yes.

Q Why did you meet him? A I always meet him every evening when I am up there and take him home from the shop.

Q In your car? A Yes.

Q How far is it from the Electric Alloy to your father-in-law's residence? A About a mile or a mile and a half.

Q Mr. Juliano, did you know a woman named Myrtle? A Yes.

Q And when did you first meet her? A The latter part of August, or the first of September.

Q And who was she, if you know? A She was introduced to me as Boudreau's wife.

Q By whom? A By Kathleen Daniels.

Q Where? A 16 Ogden street, out in the middle of the street.

Q Did you ever make any remark to her in the presence of Boudreau or anyone else at any time subsequent to July 19 that you participated in the Reid hold-up and stood on the car flourishing a revolver? No.

Q Did you ever mention anything about any participation by you in that hold-up or the flourishing of a revolver to anyone at any time at any place or on any occasion? A No.

Adjourned until tomorrow, Tuesday, November 23, 1926, at 10 o'clock A. M.

EIGHTH DAY.

Tuesday, November 23, 1926.

Appearances as before stated.

Trial continued.

NICHOLAS JOSEPH JULIANO, resumes the stand in his own behalf.

*Cross examination* by Mr. Bigelow.

Q On your direct examination, you said that you had been convicted of possessing heroin, I believe, is that correct? A Yes.

Q Did you also testify that you pleaded *non vult* to that charge and were not tried by a jury? A No, sir.

Q You did not so testify? A I was tried by a jury.

Q Were you also convicted in this Court House of selling cocaine to Mary Filmeti? A That was the charge I just admitted to.

Q Then you were not convicted of possessing, but were convicted of selling? A Selling, yes.

Q And you were given two to three years in State Prison? A Yes.

Q Is there any other criminal conviction in your record? A I was on probation for non-support.

Q Non-support of your wife? A Yes.

Q When was that? A 1915.

Q Didn't you testify that you were married in 1920? A I was married twice, sir.

Q Did you get a divorce from your first wife? A Yes.

Q Here in New Jersey? A Yes.



Q When? A I was divorced in the early part of 1920.

Q What was your first wife's name? A Jenny Petrilli.

Q Your second wife's name was Keane? A Keane.

Q And you married her on what day? A July, 1920.

Q Do you know the day of the month? A No, sir; I do not.

Q Where were you married? A Madison, New Jersey.

Q In a church? A Justice of the Peace.

Q And you had been divorced before then? A Yes.

Q Now, you have not lived with your wife for the last six months, have you? A Yes.

Q When were you discharged from the army? A The early part of 1919, or first part of 1920.

Q Doesn't it stick out in your mind the day you got out of the army? A No, sir; it does not.

Q How long were you back in this country before you were discharged? A About four months.

Q Where were you stationed during that time? A Camp Merritt.

Q Do you know when you arrived in this country after the war? A Sometime in April.

Q Sometime in April? A Yes.

Q And then you were discharged about four months later? A Yes.

Q May, June, July, August; that would make your discharge about the month of August, would it not? A August or September.

Q Of 1919? A Yes.

Q Now, what kind of an automobile have you had during the last six months? A Hudson brougham.

Q Is that the only car you had? A Yes.

Q What is the license number? A I could not just exactly say the license number.

Q The number on the big plate on the rear of the car and on the front of the car? A I do not recall it.

Q Was that car in your own name? A Yes.

Q And the license in your own name? A Yes.

Q It was not in the name of Frank Juliano? A Nicholas Juliano.

Q You were convicted under the name of Frank Juliano? A Yes.

Q How many seats has that car? A Five or six.

Q A seat in the front so that you can get two or three and then two in the back? A Yes.

Q None of the little seats you pull up? A No.

Q What color was it? A A blue.

Q Where did you keep that car the night before the Reid hold-up? A Morristown, New Jersey.

Q Whereabouts? A In front of the house.

Q What house? A 4 McCullough avenue.

Q And did you always keep it in front of the house when you were up there? A Yes.

Q And never put it in a garage? A No, sir.

Q Always in front of that house, 4 McCullough avenue? A Yes.

Q And every time you went to Morristown, you went up in the car, I think you testified? A Yes.

Q You testified on your direct that you worked for a man named Avaline on Drift street? A Yes.

Q What was the name? A A-b-e-l-i-n-e.

Q What business was he in? A Trucking business.



Q What was the address of his office? His place of business? A Why, he had his partner right on Drift street; there is where they used to have the office.

Q Do you know the number on Drift street? A I think it is 23 or 26, something like that.

Q And you drove a truck for him? A Yes.

Q You testified you worked for him about a month up until the middle of June? A Yes, sir.

Q How often during that month did you actually do work for him? A Every day, sir.

Q What hours each day? A Eight, eight and a half and sometimes nine hours.

Q What hours in the morning would you start? A Seven o'clock.

Q And you worked for him every day I suppose that means except Sundays, about the middle of May until about the middle of June? A Yes, sir.

Q Why did you testify that you went up to Morristown on Decoration Day and stayed there three or four days? A I went up to Morristown on Decoration Day with my wife and we went to the cemetery.

Q Yes, but if you worked for Avalon every day up until the month of June, you could not have spent three or four days in Morristown at the end of May. A I did not work for him at the end of May.

Q You testified that you worked for him until the month of June, you could not have spent three or four days in Morristown the end of May? A I did not work for him at the end of May.

Q You testified that you worked for him until the middle of June. Now, what is the truth,

when did you work for him? A I said I worked for him one month, that was in June.

Q Did you work for him the whole month of June? A No, sir, I worked altogether that whole month about two weeks and a half, then I took sick.

Q You worked for him about two and a half weeks in June? A Yes, sir.

Q And then you were taken sick? A Yes, sir.

Q Did you work for him the first two and a half weeks? A I cannot just exactly say, he has got the book.

Q But you know you worked for him two and a half weeks in June? A Yes, sir.

Q Do you know the month of May comes before the month of June? A Yes, sir.

Q And that Decoration Day is the 30th of May? A Yes, sir.

Q You went up on Decoration Day to Morristown? A Yes, sir.

Q And stayed there three or four days? A Yes, sir.

Q Decoration Day was a Sunday, wasn't it? A I don't recall, sir.

Q Do you remember what day of the week you came back? A I don't recall.

Q Do you know when you next went to Morristown? A I go to Morristown every week-end, sir.

Q Every week? A Every week-end.

Q That means you went up there every Saturday or Sunday? A Every Saturday night.

Q How long do you stay up there every week? A I would stay up there Saturday, Sunday, Monday and Tuesday, sometimes.

Q Did you ever come back on Monday? A Yes, I came back on Monday.



Q The week after Decoration Day when you went up there Saturday night, that would be June 5th, do you remember what day you came back then? A I don't recall, I think I stayed up there quite some time then.

Q "Quite some time" would mean several days? A Yes, sir.

Q And then did you go up again the following Saturday the 13th of June? A Yes, sir.

Q And when did you come back that time? A I don't recall.

Q Did you go up there the following Saturday the 20th of June? A Yes, sir.

Q And the Saturday after that, the 27th of June? A I don't know whether it was the 27th, but I know it was the week-end.

Q Did you go up there Saturday July 3rd? A Yes, sir.

Q How long did you stay up there that time? A I came back July 5th.

Q What hour? A About ten o'clock in the morning.

Q Did you bring your wife back with you? A No, sir.

Q Was your wife up in Morristown continually from Decoration Day up until after July 5th? A No, sir.

Q Sometimes you brought her back with you? A Yes, sir.

Q And took her back when you went again? A Yes, sir.

Q During that period were you ever in Morristown and she was not there? A No, sir, she was always there and I would take her up there with me, either one.

Q And she did not come down with you at any time? A No, sir.

Q Now, you say you have four sisters. What are their names? A Catherine, Mary, Minnie and Betty.

Q What are their last names, I mean their present names, or are they all unmarried? A Mrs. Betty Burns, Minnie Juliano, Catherine DeMatto, and Mary Cohcie.

Q Isn't one of your sisters the wife or common law wife of the defendant, Big Joe Juliano? A Yes, sir.

Q And yet you say you don't know him well? A I don't.

Q You do not associate with him? A No, sir.

Q After July 5, when you came down from Morristown at ten o'clock in the morning, when did you go back to Morristown? A I went back to Morristown the following week-end.

Q What day of the week? A I went back during the week, I should say, about Wednesday.

Q So if the 5th was a Monday, and it was, you went back Wednesday, the 7th? A Yes.

Q And how long did you stay up there that time? A I didn't stay there. I took my wife right back to Newark.

Q You just went up to Morristown and back? A Yes.

Q Did you leave your wife up there? A I took her back with me.

Q She had been up there over the 4th and you brought her back? A Yes.

Q And then, when did you go back to Morristown? A I went back on the week-end, Saturday night.

Q And how long did you stay up there that time? A I was up there close on to a week.

Q Well, if you went up there on Saturday— A Yes.



Q When did you come back? A About a week after that. I came back and changed my clothes and I went right back up.

Q You were just back here in Newark a few hours? A Yes.

Q You arrived here at what time of the day? A About two o'clock in the afternoon.

Q And when did you start back to Morristown? A About twenty past ten.

Q And did you bring your wife down with you that time? A She was already in Newark. I was taking her back to Morristown with me.

Q You came down from Morristown about half-past ten in the morning? A Yes.

Q And you had been up to Morristown for about a week then? A On the 5th day of July I came down at 10:30.

Q I am talking about the day you arrived in Newark and were here just for a few hours and then went back to Morristown again. That wasn't July 5th? A No.

Q What day was that? A I went back to Morristown on a Wednesday.

Q You went back to Morristown on Wednesday, July 7th? A July 7th.

Q And then you brought your wife down here, did you not? A Yes.

Q And then you went back to Morristown a couple of days later, is that correct? A Yes.

Q And you stayed up there almost a week? A I stayed there—I came back on the following Wednesday.

Q The following Wednesday? A Yes.

Q Did you testify that you came back on the following Saturday, and got here, I think, at half-past ten in the morning, or half-past two in the afternoon, and got a change of clothes and

went back there again at ten o'clock at night? A I came back on Wednesday and stayed home until Saturday.

Q Was there any time when you came back from Morristown and just stayed here two or three hours and went back to Morristown the same day after getting a change of clothes? A Yes.

Q When was that? A Saturday.

Q Of what week? A July 10th.

Q How do you remember that that was July 10th? A My brother bought me a suit of clothes that morning.

Q That is the day you got a suit of clothes? A Yes.

Q And you met the messenger in front of your house on Aqueduct alley? A Yes.

Q What was the Wednesday you came down? A I do not recall.

Q Was it the Wednesday before that or the Wednesday after that? A The Wednesday before that.

Q Of July 10; was that a Saturday, by the way? A I do not remember.

Q Well, was this day you were only a few hours in Newark a Saturday? A I do not recall.

Q Was the day you got the suit of clothes a Saturday? A Yes.

Q And then you went back to Morristown and how long did you stay there that time? A I stayed there Saturday, Sunday, Monday, Tuesday and I came back Wednesday afternoon at 2:30.

Q How long did you stay in Newark, then? A Well, I stayed in Newark until Saturday and then I went back to Morristown.

Q What hour did you leave Newark? A Between ten and twelve.



Q You left Newark between ten and twelve? A Yes.

Q And what time did you get to Morristown? A Ten minutes to twelve—five minutes to twelve.

Q Did you go straight up there? A Yes.

Q And you got there at ten minutes to twelve? A Yes.

Q And how long did it take you to drive up? A About an hour and a half or two hours.

Q And then you stayed up until the following Wednesday? A I do not quite recall what you have reference to, what week or what month.

Q You say you went up there on the 10th, the day you got a suit of clothes, and you came back the following Wednesday, and you went up on Saturday you left here at 10 o'clock, and got there about ten minutes to twelve; I am asking you how long you stayed in Morristown that time? A I came right back with my wife.

Q The next day? A Saturday.

Q You did not get up there until midnight? A I got up there ten minutes to twelve in the afternoon.

Q And you brought your wife right back? A Yes.

Q And how long did you stay there that time? A I got to my mother's home about 2:30 in the afternoon, and I went to the barber shop and met my brother there and he asked me would I take his wife out for a ride on account of her being sick.

Q How long did you stay in Newark that time? A I left Newark about a quarter-past ten.

The Court: What date is that, Mr. Bigelow?

Mr. Bigelow: I am not sure, your Honor, I am going to ask the witness.

Q Did you take your wife back with you? A Yes, sir.

Q You had brought her down to Newark in the morning and you took her back that evening? A She wanted to take a ride.

Q She had been up in Morristown and she wanted to take a ride, so you brought her down to Newark? A Yes, sir.

Q And is that the day that you got the change of clothes? A Yes, sir.

Q Is that the day that you got this new suit? A Yes, sir.

Q Did you get more than one new suit from your brother during the last summer? A No, sir.

Q Only one day in which you met the messenger in Aqueduct alley? A I ordered the suit myself, I met two different messengers there but one delivered it direct to the house.

Q You mean two different messengers? A Yes, sir.

Q On Aqueduct alley? A Yes, sir, but I don't recall what time I ordered the other suit.

Q I did not ask you what time you ordered that, but I asked you whether you met them on Aqueduct alley? A Yes, sir.

Q You met one at Aqueduct alley? A Yes, sir.

Q Where did you meet the other one? A He delivered my suit to the house.

Q You met him there at the house? A Yes, sir.

Q Was that before you got the other suit? A Yes, sir.





Q Earlier in the summer? A Yes, sir.

Q This day that you came down and brought your wife down with you in the morning because she wanted a ride, and you took her back in the evening was the day that your brother gave you the suit, is that correct? A Yes, sir.

Q That is the day that your brother told you that his wife was not feeling well and asked you to take her out riding? A He used to tell me every time I seen him that his wife was not feeling well, in fact, she wasn't.

Q Then, that does not help you very much towards fixing a date, does it? A Why, no.

Q Well, was there more than one time during the summer when you complied with his request and took her out for a ride? A Quite often.

Q Now, when was the last time during the summer that you went up to Morristown? A About the middle of August.

Q Do you remember what day of the week you went up there? A I went up there on a week-end and stayed there three or four days.

Q Saturday the 14th of August is just about the middle of the month, is that the Saturday that you went up there for the last time? A Why, I don't recall.

Q Well, was it as late as Saturday the 21st? A About the 14th I should judge, the early part of August.

Q Saturday the 7th? A I would not specify no special date, I don't recall that, sir.

Q It was in August, though? A It was in August.

Q Did you go up the Saturday before that? A Yes, sir.

Q And stayed several days? A Yes, sir.

Q Did you go up every Saturday from July 3rd until this last Saturday which was in the middle or early part of August? A Yes, sir.

Q Every Saturday you went to Morristown? A Every Saturday night, yes, sir.

Q Every time you went up you either took your wife with you or she was already there? A Yes, sir.

Q Do you remember what day of the week you came back after going up there on Saturday the 23rd of July? A The 24th of July, I should say—why, no, sir, I do not sir.

Q Do you remember whether it was a Thursday or not? A I don't recall, sir.

Q Do you remember whether it was early in the week? A It was in around Tuesday or Wednesday.

Q You are sure you went up there, you were up there over this Sunday? A I am always up there every Sunday.

Q Now, you say that you stopped going up there because you were doing a little work? A Yes, sir.

Q What was this little work that you were doing? A I was hiring my car out on private occasions.

Q Christenings and weddings, I think you said? A Yes, sir.

Q Do you remember anybody that you hired your car out to? A No, sir, I don't recall.

Q Did you do a pretty flourishing business? A No, sir. Just now and then I used to hire it out.

Q Well, from the middle of August when you started in this christening and wedding business until the middle of October about how many weddings or christenings did you hire your



car out for? A Only one that I recall, that was in August.

Q So business was not very extensive? A No, sir.

Q Just one occasion? A Yes, sir.

Q Was that while you were staying in Morristown or after you came back? A I was staying in Morristown on account of my health.

Q That is what I say, was it this christening that you used your car at, before or after you stopped going to Morristown? A Just before.

Q And you do not remember whose christening it was? A No, I do not know their names.

Q Was it a christening or was it a wedding? A Christening.

Q How much did you get for the hire of your car on that occasion? A They had it four hours and I was getting $3.50 an hour.

Q And you acted as chauffeur? A Yes.

Q Do you remember what day of the week it was? A Well, it was during the week sometime, the middle of the week.

Q What is the name of the doctor that sent you up to Morristown? A Dr. White, of the United States Medical Corps.

Q Dr. White? A Dr. White of the United States Medical Corps. He had me under his treatment.

Q When did you see Dr. White last? A I seen Dr. White when I was under his treatment, six months after I was discharged.

Q When did you see him last? A I have not seen him since.

Q You have not seen him since early in 1921, have you? A No, sir.

Q He told you early in 1921 to go up to Morristown in June of 1926? A Not particularly Morristown, he told me to go to the country.

Q And he is the doctor you referred to? A Yes.

Q Now, you and the defendant Big Joe are not closely related, are you? A Third or fourth cousins.

Q And, while you have known him for ten or twelve years, you have never associated with him? A No, sir.

Q I think in your direct examination you said that while you had never associated with him, there is one occasion in October when you took him from Drift street to Treat Place, is that correct? A Yes.

Q That was October of this year? A Yes.

Q And that is the most extensive association you have had with him? A Yes.

Q Now, isn't it a fact that you used to see him frequently at the club on Drift street? A I used to see him, yes, but I never spoke with him. I never went with him, "Hello, how are you, and how do you feel" and so forth.

Q Wouldn't you be at the same card game at that club? A No, sir. I was never at no card game with him in my life.

Q What did you do in the club? A Just go in and sit down and played a game of cards.

Q But you were never in the same game with him? A No.

Q But you would be in the same room with him? A Yes.

Q Frequently? A Yes.

Q How many rooms are there in that club, there are just two rooms, aren't there? A Yes.

Q One room with a pool table in it? A Yes.

Q And not a very big room, is it? A I couldn't say exactly how big it was.



Q Well, how many people usually were around that club? A I cannot recall. Sometimes it would be five, ten, twenty, twenty-five or thirty.

Q And you and Big Joe were there frequently? A No, once in a while.

Q Did you ever go to Chille Grand's on Drift street? A No.

Q Did you ever go to Pop's cafe on South Orange avenue, 89 South Orange avenue? A No, sir.

Q Never went there? A No.

Q Have I got the address wrong; is it some other number? A I never went to no restaurant on South Orange avenue.

Q And didn't you shortly after you got out of the Army and for about a year go around to a gambling place on Eighth avenue and see Big Joe there frequently? A No.

Q Didn't you go around to such a place and see Tony DePhillips frequently? A No.

Q And a man named Brownie? A No.

Q And Pete Rugero? A No.

Q Did you ever go to any place on Eighth avenue where you saw any of these people, whether it was a gambling house or not? A No.

Q Did you ever go to a place on Eighth avenue at all? A No.

Q You never went on Eighth avenue? A I went on Eighth avenue, but never stopped in any place.

Q You just went by? A Rode down the street.

Q Didn't you see Big Joe frequently at Ruff's apartment? A No.

Q You are sure about that? A Positive.

Q What was the occasion of your taking him from Drift street to Treat Place, or from Treat

Place to Drift street? A He just asked me would I take him downtown.

Q Where did you meet him? A On Drift street.

Q And you took him to Treat Place? A He asked me if I was going downtown, and I said yes, and he said, "Take me down to Treat Place," and I said, "All right."

Q In your brougham? A Yes.

Q You never knew Chris Barone to speak to you said? A Never spoke to him but once.

Q And that was at the filling station in North Newark? A Yes, sir.

Q But you knew him by sight because somebody told you that that man was Chris Barone; is that correct? A Yes, sir.

Q Are you sure about it, you never spoke to him except on that one occasion? A Yes, sir.

Q Were you ever in the same resort of places of amusement where he was? A Never.

Q Never saw him at anybody's apartment? A No, sir.

Q Never saw him at Ruff's apartment? A No, sir.

Q What was that? A I don't know Ruff.

Q You don't know Ruff? A No, sir.

Q You testified on your direct examination that you had known Ruff for two and a half months. A To see.

Q Just to see? A Yes, sir.

Q You did not speak to him either? A Never spoke except with the exception of a salute with the hand; never spoke to him.

Q Where did you meet him? A I never met him.

Q How did you happen to start saluting him with your hand? A I used to see him with my cousin Joe.



Q You got in the habit of waving your hand to him? A No, sir.

Q How long had you waved your hand to him when you saw him? A Oh, I should judge, two months, two and a half months before October 15th.

Q Never went to his apartment? A Never, sir.

Q Now, when did you first meet Kathleen Daniels, if that is her name? A In August, at the Riverside Restaurant.

Q That was the day you were cabareting? A Yes, sir.

Q That is the first time you met her? A Yes, sir.

Q And then about a week later she introduced you to Boudreau? A A week or two weeks later.

Q She told you or at least she pretended, when she introduced you, that Boudreau was her brother? A Yes, sir.

Q Are you sure of that? A She introduced me; she said, "Meet my brother Bobbie, this is a friend of mine Billy," is the exact words she said.

Q The exact words were "Meet my brother Bobbie, this is my friend Billy"? A Yes, sir.

Q That is not exactly the way you testified on your direct examination, is it? Didn't you say on your direct examination you were the one she introduced as her brother? A He was her brother; she introduced me as her friend.

Q Well, you did not say that on your direct, did you? A Yes, sir.

Q Do you remember testifying on your direct examination as follows: "After I got acquainted with her, about a week, approximately a week

and a half, she introduced me to Robert Boudreau as her brother." Do you remember that? A No, sir.

Q Well, you did testify that way, didn't you? A I testified—

Q No, did you testify that way? A Not that I recall.

Q Then, do you recall this: "She said, 'I want to present you to him under the name of Billy because his wife,' she said at that time"—that is Chille said at that time—" 'used to go with a fellow by the name of Kid Juliano,' and she did not want him"—Boudreau—"to know my name as Juliano, because he is very jealous and she did not want him to know that my name was Juliano, so I let it pass at that, so she introduced me to him the latter part of August or the first week in September, introduced me to him as her brother, and my name was supposed to be to him at that time as Billy." Do you remember testifying that? A I remember testifying everything but the introduction, that she said that he was her brother and I was her friend Billy.

Q She did not want Boudreau to know that you were a Juliano; that is a fact, isn't it? A Yes, sir.

Q And isn't it a fact, so that he would not know you were a Juliano she said that you were her brother? A No, sir.

Q That is not the fact? A She introduced me to him as her brother and I as her friend Billy.

Q When did you go to live with Chille? A September, some time.

Q How long did you live with her? A I don't quite recall.

Q A month? A About five or six weeks.



Q Were you living with her at the time you were arrested? A No, sir.

Q You were living with her, you lived with her five or six weeks, you were living with her the latter part of September, were you not? A Yes, sir.

Q And Boudreau was living there, too? A Not in my house.

Q What is that? A Not in my house.

Q Not in your house? A No, sir.

Q Well, you were not living with Chille in your house, were you? A No, sir.

Q You were living with Chille these five or six weeks at 16 Ogden street, isn't that correct? A Yes, sir.

Q And was Boudreau living there? A Yes.

Q Where were you when he telephoned you to come and help him out of some scrape? A I was home at my mother's.

Q Just visiting there for a few hours? A Yes.

Q And he called on you for help? A Yes.

Q Now, this Kathleen Daniels is a prostitute, isn't she? A I don't know.

Q You don't know? A No.

Q Weren't you receiving her earnings?

Mr. Kavanagh: I object on the ground it is not proper cross examination, immaterial and incompetent.

The Court: I will allow it.

Counsel for Nick Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

Q Didn't you have words with Boudreau because Boudreau objected to your beating up this girl when she did not bring in enough money? A I never beat her up.

Mr. Kavanagh: I object.

The Court: There was something in the direct testimony with reference to that.

Mr. Bigelow: This defendant testified he had no words with Boudreau except on another, on the occasion to which I referred, and I want to test him on that point.

Mr. Kavanagh: Well, he testified he had an argument, and he used the words; he had words with him. I object. It is not competent, relevant or material.

The Court: I will allow that.

Q Didn't you go to Scranton over the week-ends during the summer? A No.

Q Never did? A No, sir.

Q Did you tell that to Detective Thomas, this gentleman here? A No, I told him I went away on week-ends.

Q You didn't tell him you went to Scranton? A No, sir.

Q Didn't you tell him you had a girl up in Scranton? A No, sir.

Q Did you tell him that on July 19th, the day of this hold-up, you were working, driving a truck in Harrison, New Jersey? A No.

Q Did you say anything like that to him? A I do not recall it.

Q Did you tell him you were driving a truck in Harrison at any time? A I drove a truck in Harrison, yes.



Q When did you drive a truck in Harrison? A Oh, I don't know. I should judge about May or June, for one week.

Q Of this year? A Yes.

Q How long did you drive the truck there? A One or two days; sometimes my brother would take sick and I would drive the truck for him.

Q And you did not tell Thomas you were driving a truck in Harrison in July? A In July?

Q In July. A I might have drove it one or two days; I do not recall.

The Court: That is not the question. Did you tell Detective Thomas that?

Witness: No, sir; not that I recall.

Q But it was a fact you were driving a truck in Harrison one or two days in July? A I might have; I wouldn't say.

Q Didn't you tell Thomas you were driving the truck on July 19th? A I could not have been driving a truck on July 19th.

Q I am asking you if you didn't tell Thomas you did? A I do not recall.

Q Can't you say positively you didn't? A No, sir, I do not recall it.

Q Now, you testified that you took several trips during the summer—by trips I mean that you started out from Morristown with your father-in-law and mother-in-law and Frances and May, if I recall her name, and your wife and drove to Bernardsville or Dover, or to some other place; do you remember that testimony? A Yes.

Q Do you remember testifying that you drove to Dover on one occasion? A Yes; we used to go to Dover quite often.

*Nicholas Joseph Juliano, cross.*

Q Did you take these trips in the rain, or did you take them when the weather was fair? A Sometimes it was raining and sometimes it was fair.

Q Well, the time you went to Dover on the 18th, what was the weather? A I do not recall.

Q What time did you start out on that day for that trip? A I should judge about—I went to the barber shop and I could not exactly say what time.

Q This is the trip from Morristown up to Dover? A Oh, from Morristown to Dover. We left the house about 8:30 or 9:00 o'clock.

Q Morning or evening? A Evening.

Q And when did you get back? A About twelve or a little after twelve.

Q A little after midnight? A Yes.

Q And you don't remember whether the weather was fine or whether it was rainy? A I do not recall. We went there quite a number of times. Sometimes it was raining and sometimes it was—

Q You only went there one day before the Reid hold-up? A No, quite often I went there.

Q Well, you only went there once the day before the Reid hold-up? A I said we used to go riding up around that way.

Q Do you remember the occasion you went to Springfield to the hotel at the junction and got a hot dog? A Yes, we used to go there quite often.

Q Do you remember any particular occasion when you went there? A No, I don't.

Q Your memory is not very clear on that? A No, sir. I know we used to go there on Sunday evening.

Q Did you go there every Sunday evening? A Not every.



*Nicholas Joseph Juliano, cross.*

Q Some Sunday evenings you drove to Dover, didn't you? A Yes.

Q And some Sunday evenings you drove to Bernardsville? A Yes.

Q But you never drove to Scranton? A I never went to Scranton.

Q On the 29th or 30th of August weren't you at Ruff's apartment at 93 Milford avenue? A Sir?

Q On the 29th or 30th of August were you not at Ruff's apartment at 93 Milford avenue? A Never.

Q Never at that apartment? A Never.

Q Never at any apartment of his, and you understand who I mean by Ruff, the defendant Capozzi? A Yes, sir.

The Court: Juliano, you speak of Aqueduct Place.

Witness: Aqueduct alley.

The Court: That is the street that is a short block running from Clifton avenue to Factory street?

Witness: No, it runs in at Eighth avenue and comes out at Clifton avenue.

Q In other words, it is on Clifton avenue as it enters between Eighth avenue and Drift street?

Witness: Yes, sir.

The Court: So that you could walk out of a yard on the south side of Drift street and get into Aqueduct alley; is that right?

Witness: Yes, sir.

LORETTA JULIANO, sworn in behalf of defendant Nicholas Joseph Juliano.

*Direct examination* by Mr. Kavanagh.

Q You are the wife of the defendant, Nicholas Joseph Juliano? A Yes, sir.

Q And when were you married to the witness Nicholas Joseph Juliano? A July 6, 1920.

Q Where were you married? A In Madison, New Jersey.

Q By whom were you married? A By a Justice of the Peace; I just don't know his name.

Q After your marriage where did you go to live? A We stayed with my mother a short time and then we went to my mother-in-law's and stayed at my mother-in-law's home.

Q Where did your mother live? A At 4 McCullough avenue, Morristown.

Q Does your father live there, too? A Yes, sir.

Q And have you brothers and sisters living there? A Yes, sir.

Q How many sisters have you? A I have three sisters.

Q What are their names? A Anna, Florence and Marion.

Q Is any one of them married? A One, Marion.

Q What is her name? A Marion O'Grady.

Q Does she live in the same house where your father and mother live? A No, she lives in Morristown, but not in the same house.

Q How long have you lived in Morristown? A Do you mean how long have I or my people?

Q How long have your people lived in Morristown? A About forty years.



Q Were you born in Morristown? A Yes, sir.

Q How old a lady are you? A I am twenty-four years old.

Q And you have been living in Morristown since the date of your birth? A Yes, sir.

Q And your family have lived there for forty years; is that right? A Yes, sir.

Q Now, after your marriage to Nicholas Joseph Juliano he was convicted of crime, wasn't he? A Yes, sir.

Q And sentenced, as he testified this morning? A He was sentenced from two to three years.

Q And he served part of his time, didn't he? A Yes, sir.

Q And after he came out of jail did you and he take up housekeeping again? A Well, we did not housekeep, but we lived on and off with my mother-in-law and my own mother.

Q Sometimes in Morristown and sometimes in Newark; is that right? A Yes.

Q Where did your mother-in-law live? A At 29 Aqueduct Place.

Q How long have they been living there, do you know? A Well, they have been living there since I have been married.

Q Now, I understand your husband was in the army; is that right? A Well, I was not married to my husband when he was in the army.

Q You knew from what you had heard; is that right? A Yes, sir.

Q Do you know what has been the condition of your husband's health since he came out of prison? A Well, I know he has not been feeling well; that is why he could not work all the time.

Q Did you observe him at the time that his health was bad? A Pardon me?

Q Did you observe what his condition was as to his health? A Well, I knew that he was sick and that he was gassed in the army.

Q In what manner would he show that he was sick, from your observation? A Well, when he would come to Morristown and he would stay in the house he would change color and be white and he would have to be out in the air all the time; he could not work inside.

Q Was he in the habit of coming to Morristown to your parents' home? A Every week-end.

Q And when did he start to come to Morristown every week-end? A On Decoration Day.

Q You are speaking about the year 1926 and you say Decoration Day? A Yes, sir.

Q How long would he remain in your parents' home when he came over the week-end? A Oh, sometimes a week and sometimes he would stay two or three days.

Q And do you know of your own knowledge how he went to Morristown—whether by rail or by auto or by bus? A He went with his car.

Q He had a car, did he? A Yes, sir.

Q Now, coming down to the month of July of this year, was he in Morristown to your knowledge Saturday before the 4th of July? A He came every week-end; I just don't recall what date, but every week-end in July.

Q Well, the 4th of July, as you recall, was on what day? A It was on Sunday, and they held it over until Monday, the 5th.

Q Now, on the 4th of July, Sunday, was your husband in Morristown? A Yes, every week-end.

Q The 10th of July? A Yes, he was.



Q Now, did you accompany him to Morristown on the 10th of July? A Yes, I did.

Q Do you remember an occasion on Saturday, the 10th of July, when your husband met his brother, Frank Juliano? A Yes, I do.

Q You just tell the Court and jury in detail what you know about that occasion. A Well, on the 10th of July, my husband and I went out and we met my brother-in-law and sister-in-law. We went out riding and we took a ride, toward Eagle Rock and Singac, and we stopped at some hot dog stand there and we bought a couple of hot dogs and a bottle of soda, and then we went back to Newark. We come back to Newark and then we left my brother-in-law and sister-in-law at 10 or 10:30 at Burnett street, and then we drove right to Morristown, and we got to Morristown five or ten minutes to 12:00.

Q Was that the occasion when your husband got a new suit as a gift from his brother? A Yes.

Q Now, when you got to Morristown on the evening of the 10th, did your husband remain in Morristown? A Yes, he did.

Q And the next day was a Sunday, wasn't it? A Yes.

Q Do you remember what you did on Sunday, the 11th? A Well, some Sundays we would go out riding and then some Sundays we would just stay in the house and would not go out at all.

Q Do you remember what you did on the 11th? A No, I do not recall.

Q When your husband came to Morristown on these week-end occasions which you have just testified to, he came in his car? A Yes.

Q And do you know where he kept his car when he came to Morristown? A Always in front of the house at 4 McCullough avenue.

Q He never put it in any garage? A No.

Q Do you know why? A Well, because he never had any money to put it in a garage.

Q Your husband did not have very much money for a long time? A He never had any money, only what my people would give him and his own people.

Q And was that because he was unable to work for any length of time, do you know? A Pardon?

Q Was that because he was unable to work for any length of time? A Yes, he was unable to work. That is why he did not have any money.

Q Do you recall when your husband came back and left Morristown on the occasion that he went up with you on the 10th of July? A Well, he came back the next Saturday.

Q That was when? A That was the 17th of July.

Q Did you come back with him? A No, I was up to my mother's at that time. Sometimes I would come back with him and then go back home again and then other times I would just stay home and he would come up alone to Morristown, and on that occasion I was up to Morristown on the 17th.

Q You remained in your mother's home? A Yes.

Q Now, you have mentioned Saturday, the 17th of July; it was a Saturday, wasn't it? A Yes.

Q He came down from Morristown in the morning? A Yes.

Q Do you know when he returned to Morristown? A What do you mean when he returned?



Q Did he return that same day? A He come on the 17th, yes.

Q Now, were you in Morristown at that time? A Yes.

Q When did he come up to Morristown on Saturday, the 17th? A I just do not recall the hour, but I know that he come on the 17th of July, up to my home.

Q Do you know where he was on the 18th? A Yes.

Q Sunday, the 18th? A Yes.

Q Where was he? A At my mother's home.

Q How do you know that? A Well, I know that because every week-end he used to come to my home.

Q Well, did you do anything special on the 18th, Sunday, the 18th? A Did I do anything?

Q Yes. A Not exactly. I know that he come every week-end and I know that the 18th fell on a Sunday.

Q Did you go riding? A Yes. We went out that day and went to Dover.

Q Did you go anywheres else on Sunday, the 18th? A I think we stopped down at Springfield and my father and my husband went in for a glass of beer, and we stayed out in the car, and they brought some out to us, and we had our own sandwiches with us.

Q That was on Sunday, the 18th? A Yes, sir.

Q And what time did you get down to Springfield, if you recall? A Well, I do not just recall the hour.

Q Was it in the late afternoon or evening? A No, it was in the evening; I should judge about ten or quarter past.

Q Do you know the name of the restaurant in Springfield that your father and husband went in to have some refreshments? A Well, it is a hotel right at the junction, but I do not know the name of it.

Q Did you ever go there before? A I never went in myself.

Q No, I mean when you were out driving with your husband did you ever stop there before? A Yes.

Q When your people were along, your father and mother? A Yes.

Q Now, who was on the drive with you on Sunday, the 18th? A My father and mother and two sisters and myself.

Q How were you all seated in your husband's car? A Well, my father and my husband sat in the front.

Q Who drove? A My husband.

Q Your father sat in front with him? A Yes, sir.

Q Where did your mother and your sisters and yourself sit? A We all sat in the back.

Q How many seats are in the back of the car? A Well, it is just a two-seated car, but it holds about five or six passengers.

Q Now, Mrs. Juliano, what time did you return home, all of you, your husband included on the evening of July 18th? A Well, I should judge it was about a quarter after twelve or half-past twelve that we got home.

Q Did you go right to bed? A No, we did not.

Q What time did you go to bed on the morning of July 19th? A Well, we—

Q If you recall. If you don't recall say so. A I don't recall just the exact time we went to



bed, I know we sat up and had some sandwiches and some coffee, I don't recall just what time it was.

Q And you slept with your husband on the night of July 18th, and the morning of July 19th? A Yes, sir.

Q Where? A At my mother's home, 4 McCullough avenue.

Q And who was present in that house on that night besides your husband and yourself? A My father, my mother and my two sisters.

Q What time did you get up on the morning of July 19th, if you recall? A About a quarter to twelve, my husband and I.

Q You slept until a quarter of twelve? A Yes, sir.

Q And do you know what time your mother got up? A My mother always gets up real early in the morning.

Q What do you mean by real early? A About half-past four.

Q Do you know what time your father gets up? A My father gets up about the same time, because he goes out of the house about 5 o'clock to go to his place of business.

Q Where does your father work? A At the Electric Alloy Company.

Q Where is that located? A It is in Morristown, just how far from my home I don't know the mileage.

Q Can you approximate how far it is from your home? A Probably it is about a mile away from my home, I am not sure of that, though.

Q Now, you say that your husband got up at a quarter to twelve on Monday morning, July 19th? A Yes, sir.

Q Do you know what he did after he got up? A Well, he had his breakfast and sat around the house.

Q Do you know what he did on the afternoon of July 19th? A Stayed in the house with us.

Q Was your husband out of your father's house on the morning of July 19th, Monday morning at any time? A No, sir.

Q You slept beside him in bed from the time you went to bed early that morning until a quarter of twelve? A Yes, sir.

Q And when he got up he was in a state of negligee, that is, he did not have any clothes on outside of his pajamas, is that right? A Yes, sir.

Q How long did your husband remain in Morristown? A Until Wednesday.

Q Wednesday? A Yes, sir.

Q That would be the 21st of July, is that right? A Yes, sir.

Q What time did he leave Morristown, do you know? A About 2:30 in the afternoon.

Q Were you continually with your husband or not, between the time that he arrived in Morristown on the night of July 18th until the time he left Morristown on July 21st? A Well, he didn't come that night of the 18th, he was in my home the 17th, from the 17th until the 21st and I was with him all the time.

Q Then, the date is Saturday the 17th? A Yes, sir.

Q From Saturday the 17th, after he got to your home around midnight, you say until he left your father's home on the 21st, were you or were you not continually in his company? A I was always in his company.



*Cross examination* by Mr. Bigelow.

Q Mrs. Juliano, how old are you? A I am twenty-four years old.

Q And you were married on July 5, 1920? A No, sir, July 6, 1920.

Q In Madison? A New Jersey, yes, sir.

Q By a Justice of the Peace? A Yes, sir.

Q Who suggested that you go to a Justice of the Peace rather than a church or rather than a judge or some other officer? A Well, nobody suggested it, I wanted to be married and my husband wanted to wait until the Priest would call it out on three Sundays and I said no, I would get married first by the Justice of the Peace and we never bothered to be married by the church.

Q Don't you know in New Jersey in 1920 a Justice of the Peace had no power to perform a marriage ceremony? A He had no power?

Q Didn't you know that? A No, you are married by a Justice of the Peace, no matter what time you are married.

Q Now, after you were married you lived at Morristown first? A Yes, for a short time.

Q For about how long? A That I don't recall.

Q Well, a year? A Oh, no, we didn't live there that long, because we lived on and off, we lived with my mother and we lived with my mother-in-law.

Q How long did you continue to live, off and on, first with your mother-in-law and then with your mother and vice-versa? A Well, when we were first married we stayed a couple of weeks with my mother and then we left and went to my mother-in-law's.

Q And you have been living there ever since except in the summers? A On and off with my mother and my mother-in-law, we lived both places.

Q When did you go to Morristown this year? A I went on Decoration Day.

Q With your husband? A Yes, sir.

Q In the brougham, the Hudson brougham? A Yes, sir.

Q How long did you remain up there at that time? A Well, I am not just sure how long we stayed, I think we stayed there about a week.

Q And then you came back to Newark for a day or so? A Yes, sir.

Q And then you and he went back to Morristown? A Yes, sir, week-ends.

Q Well, you did not always come down when he did, did you? A Well, I did not always come down all the time, sometimes I would stay with my people and he would go home alone and then other times I would come down with him to take the ride down and then go back with him.

Q Now, do you recall for the first time after Decoration Day whether you came down with him or whether you stayed up there? A I don't recall that.

Q And then going to the end of June, or early in July, the first Saturday in July, were you down in Newark, did you come down for a few days then, or were you staying up in Morristown at that time? A The first Saturday in July, no.

Q Yes. A Well, I just do not recall whether I came down or not, I do not know whether I stayed there or come down.

Q And how about the second Saturday in July, had you come down before that and did



you on that day go back to Morristown, or had you remained at Morristown? A Well, I recall once that I come down with my husband, and that was on the 10th of July, and I think that was the second week in July.

Q Do you recall that time particularly? A Yes.

Q And you recall, I believe, the 17th distinctly? A Yes, I do.

Q Are there any other dates that you recall distinctly? A No, I do not recall any other dates.

Q When did you come down for good to Newark that summer? A To stay here, well, I do not know that I recall the date that I come down to stay, because we always went up on week-ends, until they arrested my husband. I expected to go up the next week-end.

Q You continued going up there week-ends? A Always week-ends.

Q Until they arrested your husband? A Yes.

Q That was October 16th or 17th, was it not? A Well, some week-ends we would go up there in October, but I remember that we come down here to stay for good in the middle part of August.

Q Why did you say you went up for week-ends until they arrested your husband? A I said that I did go up week-ends. I always wanted to go on week-ends until they arrested my husband. I expected to go up on that week-end.

Q But you had not been up there for a couple of months before he was arrested? A I was not up there in September. I left my mother's home about the middle part of August.

Q Do you remember a period of about five or six weeks in September, and possibly running over into October, when your husband was not at home? A He never stayed away from me five or six weeks.

Q Well, he stayed away for several weeks, didn't he, in September? A No, he was always home week-ends.

Q Were you in Newark or in Morristown during September? A I was in Newark in September.

Q And if he was home week-ends, that means he was home in Newark? A Yes.

Q You say he was always home week-ends? A That is in Morristown. When I was in Newark, he was always with me every night.

Q He was not staying at 16 Ogden street? A I do not know nothing about that.

Q Well, let me put it in another way, was he staying at 29 Aqueduct Place? A 29 Aqueduct Place.

Q During the month of September, nights? A What I can recall, yes.

Q You were there yourself? A Yes.

Q You were not in Morristown? A I do not recall being in Morristown in September.

Q Now, are there any other dates that you can remember distinctly that happened during the past summer except the 10th and the 18th of July? A Is there any date?

Q Is there any other dates in the last six months that you can remember what happened excepting those two dates? A No, only on the 13th, because that was my birthday, and I was with my mother.

Q Any other dates? A No.



Q Now, frequently when your husband was in Morristown you took automobile trips? A Yes.

Q You went several times to Dover? A Yes.

Q And you went several times to this hotel at Springfield where you did not get out, but I think you said your husband and father did? A Yes.

Q And several times to Bernardsville? A Yes.

Q And there were times you stayed in Morristown? A Well, we all stayed in Morristown when my husband was up there, and then in the middle of the week he would go home.

Q What is there about the 10th that brings it so clear to you? A Well, my brother-in-law gave my husband $5 to put on a suit, and I know that was the Saturday I came down with him in July for a ride, and then I went back to my mother's house.

Q You saw your brother-in-law give your husband $5 that day? A Yes, I did.

Q Where? A In my mother-in-law's home, 29 Aqueduct Place.

Q At about what hour? A Well, the hour I just do not recall. I think it was in the morning sometime.

Q In the morning? A I think it was in the morning.

Q How long had you been in Newark that time? A When he gave him the money for the suit?

Q Yes. A Well, I was only here to say—sometimes I would come down and stay a day or two days with my mother-in-law.

Q Well, on this particular occasion when you saw this $5 handed over on the morning of July 10th, how long had you been in Newark? A

Well, I came down from my mother's that day, and I think it was around noontime. We were sitting in the kitchen and my husband needed a suit, and his brother gave him $5.

Q Did you see the suit delivered? A Yes.

Q When? A We saw the fellow coming down Aqueduct Place. He could not find the house.

Q What hour? A Well, in the afternoon sometime. I do not just recall the hour.

Q Did you take a ride that afternoon? A No, we had dinner at my mother-in-law's home and after dinner we took a ride.

Q And about what hour did you have dinner, in the evening or the middle of the day? A Well, dinner is at night most generally at 7 o'clock.

Q And as far as you can recall, you were home that afternoon? A That afternoon, yes.

Q And was your husband home, too? A Yes, he was always with me.

Q He did not go down to wherever the clothing store was to order the suit? A We were going to—

Q I asked you did you go down? A He ordered the suit that day, yes.

Q Did he go down to this store? A To get the suit?

Q Did he, to order it? A He went to order it.

Q Did you go with him? A No, not to order it, my brother-in-law went with him.

Q You stayed at home? A Yes.

Q And you were not with him at the time when he had ordered the suit? A No, I was not.

Q You had forgotten when you said you were with him all the time? A I didn't say I was with him all the time in the afternoon. I was



not with him all the morning when he went to order the suit.

Q How do you recollect the 18th? A Well, because that is the longest week in July that I stayed at my mother's home, he was ill.

Q You did not go down to Newark on the 18th? A No, I didn't.

Q You remained up there from the 10th on? A Yes.

Q When did you come back after going up there on the 10th? A Well, I just do not recall what date it was when I come down after the 10th.

Q Well, was it three weeks or two weeks or when was it? A I know I was there the next week after that until the middle of August.

Q From the next week after the 10th? A Until about the middle of August.

Q You remained in Morristown until about the middle of August? A Yes.

Q Your husband would come down occasionally during the middle of the week but you remained up there in Morristown? A Yes.

Q Some days he would come down Monday and some Tuesday? A He never came on a Monday.

Q Did he ever come on Tuesdays? A No, he most generally came on a Wednesday or Thursday.

Q Never on Monday? A Never on Monday.

Q And did you say never on Tuesday? A Never on Tuesday.

Q Was your name Kane or Kean? A Some people call it Kane and some Kean, the right way to pronounce it is Keane—K-e-a-n-e.

Q You never called yourself King? A No, not King. Some call it K-a-n-e and some

K-e-a-n-e, but the right way to pronounce it is Keane.

Q By the way, that 10th of July when you took this long trip, at least this trip to Dover and to Springfield, was it raining or was the weather clear? A I just don't recall whether it was clear or whether it was raining.

Q Do you recall whether it was raining or whether it was clear on the 18th? A No, sir, I do not recall.

Q Or on the 17th? A No, sir, I do not recall.

Q Or on the 19th? A I do not recall.

The Court: Did I understand you to say that beginning with Decoration Day your husband spent week-ends at your home in Morristown?

Witness: Well, when I went up Decoration Day he stayed about a week with me and from then on that is the time we used to go up to Morristown on week-ends.

The Court: Then, in answer to the prosecutor's question did you say that from that time on he stayed Saturday, Sunday, Monday and Tuesday?

Witness: What time do you mean, Judge?

The Court: Well, beginning with the time that you fix as the regular time that he started to spend week-ends at your home?

Witness: He used to come up every week-end.

The Court: Now, do you mean at what time?

Witness: From Decoration Day on up until the month of August.



The Court: Then he spent every Saturday, every Sunday and every Monday from the 30th of May until the middle of August?

Witness: Yes, sir.

The Court: Was he there on July 5th?

Witness: Yes, sir.

The Court: The Monday after the 4th of July?

Witness: Then he left to go to a ball game and came back again.

The Court: What time did he leave?

Witness: I don't know, in the afternoon some time.

The Court: Where was the ball game?

Witness: In Newark.

The Court: So he left Morristown in the afternoon to go to a ball game?

Witness: Yes, sir.

The Court: What time in the afternoon?

Witness: The time I just don't recall.

The Court: After lunch?

Witness: Yes, sir.

The Court: How much after lunch?

Witness: Well, not so long after lunch, I think he just ate and went out after that.

The Court: What time would that be, half-past one or 2 o'clock?

Witness: Well, no, it wasn't that time, it was probably about 12:30 or 12 o'clock.

The Court: That is the only Monday he left Morristown?

Witness: The only Monday, but that wasn't the 19th that he left to go to the ball game?

The Court: No, I am speaking about the ball game, I am asking you about the 5th of July.

Witness: Yes, that is the only Monday he left to go to the ball game.

The Court: And he left 12:30?

Witness: That is as near as I can recall the time.

The Court: He did not leave any other Monday?

Witness: No, sir.

*Re-direct examination* by Mr. Kavanagh.

Q Mrs. Juliano, I understand you to say that you were married in Madison, that is true, is it not? A Yes, sir.

Q And I understood that you were married by a Justice of the Peace, is that right? A Yes, sir.

Q Now, will you tell me in what building in Madison you were married? A Well, it was the Police Court, I don't know the name of the street in Madison, but I know you come to the center of Madison and you turn to your right; it is a Police Court.

Q Do you know whether it was the municipal building in Madison or not? A Well, I don't know the name of it.

Q Do you know as a matter of fact whether it was the City Hall of Madison? A Well, I think that is what it was, the City Hall in Madison.

Q And why do you think it was the City Hall? A Well, I don't know just why, because there is a Justice of the Peace to marry us, and you





most generally get married in the City Hall by a Justice of the Peace.

Q Are you sure it was the Justice of the Peace who married you? A Yes, I am sure.

Mr. Bigelow: I object to this leading.

Q You were married by a Justice of the Peace? A Yes, sir.

Q And you believed that as far as your knowledge was concerned that it was a Justice of the Peace who married you and your husband? A Well, yes, because there was a lot of cops around there when we were married.

Q Were you married in a court room? A I don't know whether it is a court room or what it was; it was a big room.

Q You don't know whether the Justice was a judge of that town, do you? A Yes; I don't recall his name, but he was called a Justice of the Peace.

Q You don't know whether he was a judge of Madison?

Mr. Bigelow: I object to that, your Honor.

A Yes, he was a judge, otherwise he would not marry us.

The Court: Do you know his name?

Witness: I do not recall his name.

*Re-cross examination* by Mr. Bigelow.

Q You are sure he was not the janitor, are you not? A Yes, I am.

JOHN KEANE, sworn in behalf of defendant Nicholas Joseph Juliano.

*Direct examination* by Mr. Kavanagh.

Q Where do you live, Mr. Keane? A Morristown.

Q How long have you lived in Morristown? A About forty years.

Q Where had you been living before you went to live in Morristown? A Orange.

Q What is your business? A I used to be in the horseshoeing business for years and I gave it up about eighteen years ago.

Q Where were you in the horseshoeing business? A In Morristown.

Q Have your own business? A Yes, sir.

Q And I suppose when the automobiles came along your business decreased; is that right? A That's the idea.

Q Where are you working at the present time? A With the Electric Alloy Company in Morristown.

Q What is the nature of your employment there? A General watchman and clerical work and so forth.

Q How long have you been working there? A About eighteen years.

Q Where is the Electric Alloy Company located in Morristown? A On an avenue called Ridgedale avenue.

Q Ridgedale avenue? A Yes, sir.

Q Where do you live in Morristown? A McCullough avenue.

Q What number? A Four.

Q How far from the place of your residence is it to the place where you work? A I should call it about a mile and a quarter.



Q How long have you been living at 4 McCullough Place, Mr. Keane? A About eight years.

Q What does your family consist of? A My wife; two daughters at present.

Q And your daughter Loretta is the wife of the defendant Nicholas Joseph Juliano; is that right? A I presume she is.

Q Do you know when they were married? A I know something about it, yes.

Q Do you know when they were married? A Well, I really could not tell you that.

Q Now, Mr. Keane, how long have you known your son-in-law, Nicholas? A Well, I cannot recall how long they were married, but they come up to our house, I guess, immediately after, as I understand.

Q How long ago was that? A It appears to me three or four—four years.

Q You do not know anything about your son-in-law being in the army? A I don't know anything about that.

Q During the past year, do you know whether your son-in-law, Nicholas, has ever come to your home at 4 McCullough avenue, Morristown? A Yes.

Q Do you know of your own knowledge when he started to come to your home at 4 McCullough avenue, Morristown? A He come there week-ends.

Q Do you know when he first started to come there? A The first part of the summer.

Q And can you tell us the month? A The whole months of the summer, and until recently.

Q Well, the summer months are June, July, August and September; they generally mean the summer months. A He generally come all the week-ends for six months.

Q Now, when he come to visit at Morristown, do you know of your own knowledge where he would sleep? A What is that?

Q And I say, when he came to visit your place at Morristown, where would he sleep, where would he spend the night? A I am a little deaf.

Q When he came to visit at your home at Morristown where did he spend the night? A He would stay right with us in my house.

Q Now, how long would he stay as a rule when he came to visit? A Why, he would stay three, four, five days sometimes; sometimes three, four, five.

Q And do you recall the 4th of July of this year? A Yes.

Q Do you remember what day the 4th of July fell on? A I think it fell on a Sunday, if I remember correctly.

Q And do you recall whether your son-in-law, Nicholas, was up at your house on the 4th of July? A Yes.

Q Do you remember when he arrived there before the 4th? A No, I don't.

Q Do you know whether he was there on the 5th of July? I understand the 4th of July was celebrated on the 5th, on account of its falling on a Sunday; is that right? A Yes, that is right.

Q Was he there on the 5th of July? A Yes.

Q Now, do you recall his coming to Morristown on the Saturday following the 5th of July? A Yes.

Q And do you recall what time he came to Morristown on Saturday, the 10th of July? A No, I don't. I was to work.

Q You were to work when? A On those dates you have mentioned, the 10th.

Q I see, the 10th? A Yes.





Q Well, the 10th of July was on a Saturday? A Yes.

Q What hours do you generally work? A Well, I have got to be on the job at 6:00 o'clock and I have got to stay until the watchman comes on at 6:00. If he comes at half-past five, I am excused, but if he don't come until half-past six, I have got to stay.

Q You mean you go to work at six o'clock in the morning and sometimes you get off at half-past five? A Yes, and sometimes six o'clock; sometimes ten or fifteen or twenty minutes after.

Q You were not working Saturday night, the 10th of July? A No.

Q And was your son-in-law at your home on that night? A He was there when I come there, yes.

Q He was there when you came there? A Yes.

Q Now, did you go driving with him the following day? That was the 11th of July. A I presume I did, at night.

Q Do you remember where you went driving with him? A I think we went down to Springfield, or whatever you call it down the road here.

Q Now, do you know of your own knowledge how your son-in-law went to Morristown, by train or auto or what? A He always drove a car when he come there.

Q And where would he leave the car when he came to your home? A Outside of the front of the house.

Q Did he always leave it outside in front of the house? A Yes.

Q Now, the following week-end, the 17th of July, Saturday, do you know of your own knowledge whether your son-in-law was at your house that day, Saturday, the 17th? A Yes.

Q And do you know when he came there? A I cannot tell you when he came there; no, sir.

Q Saturday, the 17th, do you know when he came to your home? A No, I don't.

Q Was he there on Sunday, the 18th? A Oh, he was there all right, yes.

Q Now, do you know how long he remained in your home from the time that he came on the 17th, Saturday, the 17th, until he left the following week?

Mr. Fisch: I object.

The Court: Find out if he was there.

Q Was your son-in-law there on the 18th of July? A Yes.

Q Was he there on the 19th of July? A Yes.

Q Was he there on the 20th of July? A Yes.

Q Now, when your son-in-law was at Morristown, did he ever call for you when you got off from work? A He went over after me every evening that he was in Morristown.

Q Over where? A To the Electrical Alloy Company plant.

Q How did he go over after you? A In his car.

Q In his car? A Yes.

Q Do you know why he went over after you? A I cannot tell you. He went over after me to take me home, that is all I know.

Q Now, what time would he call for you when he was in Morristown? A He would be there five or ten minutes sometimes before six.

Q Before six? A Yes.

Q You heard about what is called the Reid stick-up? A Yes.



Q And when did you first learn of this Reid stick-up? A Well, I get the Newark News every day.

Q And did anyone tell you about the Reid stick-up? A Not until I read it in the paper.

Q Did anybody tell you about the Reid stick-up? A Not until I read it out of the paper.

Q Out of the New York News? A Yes, sir.

Q And do you remember the date you read it out of the New York News? A If I remember correctly it was the next morning—it was printed the next morning after Mr. Condit was killed.

Q The next morning was Tuesday, July 20th? A The next morning in the New York News I read it.

Q That was on Tuesday, July 20th; is that right? A The 21st.

Q The 21st? A Yes, sir.

Q Well, do you recall now whether it was the 20th or the 21st? A Well, I cannot say positively whether it was the 20th or the 21st.

Q The robbery is alleged to have taken place on Monday, July 19th, at 10:00 o'clock in the morning. A I don't know when this man was killed or when he wasn't, but I know this, that I got this out of the News, and my son-in-law was in the house while I read it and I said, "It is a damn shame to kill an old man like that"; that's all I know; it was the next day I think this paragraph was in the News.

Q You made a remark when you read it to your son-in-law, Nicholas Juliano? A Well, yes, the whole family, in fact.

Q Did he say anything to you in answer to the remarks that you made? A Yes, he commented on it; yes, sir.

Q Do you remember what he said?

Mr. Fisch: I object to that.

A Why, yes, he coincided; he said it was a damn shame.

The Court: I will allow it.

Q Repeat that. A He said it was a damn shame.

Q Now, Mr. Keane, when your son-in-law came to Morristown on these different week-ends, the dates that you have just testified to, would he take you out riding? A At times when I wanted to go; sometimes I didn't want to go.

Q Now, you remember the evening of the 17th of July, do you? A Yes, sir.

Q And in that house where did you sleep? A Where did I sleep?

Q Yes. A In a bed.

Q I mean in what room did you sleep? A The second room off of our dining room.

Q Where did your son-in-law and his wife sleep? A In the next room to me.

Q Now, the morning of July 19th were your daughter and son-in-law in bed when you left the house in the morning? A Yes, sir.

Q Sure of that? A Positive.

Q And were they at home when you came back from work that evening on the 19th of July? A Yes, sir, they were.

Q You left the house pretty early in the morning, Mr. Keane, didn't you? A About 5:30; yes, sir.

Q You don't know of your own personal knowledge, do you, what time Mrs. Juliano and





her husband got up that morning? A I can't tell you.

Q You cannot tell us because you were not there? A No, sir.

*Cross examination* by Mr. Fisch.

Q Now, Mr. Keane, you did not attend your daughter's wedding, did you? A No, sir.

Q And how long ago is it since you know that she was married or presumed that she was married, I think is what you said? A Why, I think I heard it the next day.

Q Well, how long ago is that? A I cannot tell you exactly, three or four years.

Q You are sure it is not longer than that? A Positive.

Q Positive it is not more than three or four years ago? A I don't think so.

Q Well, you told us a minute ago that you are positive. A Not that, now you have got me wrong, I didn't tell you I was positive of her marriage.

Q You are not positive that they are married, but you are positive it is not more than three or four years ago since you heard that she was married? A I think that she can produce a marriage certificate for you.

Mr. Fisch: I ask that that be stricken out as not responsive.

The Court: Strike it out. Just answer the question, Mr. Keane.

Q You say that you are not positive that it is not more than three or four years ago since you learned that they were married? A Well, it is about three or four years, that is what I say.

*John Keane, cross.*

Q Now, was your daughter living at home at the time she got married to the defendant Juliano? A Yes, sir.

Q She was living at home, was she? A Yes, sir.

Q Didn't you have some trouble with her, didn't you? A I did not want my daughter to marry this man, no.

Q And you had some trouble with her, didn't you? A Not a bit.

Q You put her out of the house, didn't you? A No, sir.

Q And she was not living at home, was she? A Yes, she was living at home.

Mr. Kavanagh: I object, if the Court please.

The Court: Sustained.

Q How many rooms have you in your house up there in Morristown, in your apartment? A Six, I think, and bath.

Q What rooms are they? A There is a kitchen, there is a dining room, three sleeping rooms and a parlor and bath.

Q Just this past summer is the first summer that your son-in-law came up to spend the week-ends with you, isn't it, Mr. Keane? A No, sir.

Q When did he first start to spend week-ends with you? A He has been coming right along for about a month after he was married. He has been coming right along.

Q And that is three or four years ago? A Yes.

Q And he has been up there week-ends for the past three or four years? A No. He was not. He has been to jail.



*John Keane, cross.*

Q He did not come up then? A No, he did not come up then, no, sir.

Q But outside of the time he was in jail, he come up there every week-end? A Yes, as a rule.

Q Now, when did he start to come up week-ends this year? A I think he come up week-ends in May, week-ends in June and in July.

Q August? A Yes.

Q September? A I don't think he was there in September.

Q You do not think he was there in September? A No.

Q Was he there every week-end in August? A Yes.

Q Every week-end in June? A Yes.

Q Every week-end in July? A Yes.

Q And how many week-ends in September? A I do not remember any.

Q None at all? A No, sir.

Q Now, you say that whenever he was up in Morristown he used to call for you? A He went to where I worked and called for me in the evening, yes.

Q Now, you also told us, did you not, that on some occasions you came home and found him at home? A Yes.

Q He did not call for you on those occasions, did he? A Well, no. Probably he just come in and had car trouble. I remember occasions that he had car trouble.

Q You think the times he did not call for you was when he had car trouble? A Well, he said so.

Q Well, did he say so the time you came home and found him home any time during the past summer? A He went for me several times when

I rode with other people home, men who worked there.

Q Now, you say he was up there in Morristown on July 10th, is that right? A Yes.

Q How do you know that it was July 10th? A I simply had to get the date. I have dates every day. I turn in dates, so I know every date in the year.

Q I guess we all know every date in the year. A I do.

Q Can you tell me where you were on April 23rd of this year? A The 23rd I was working there at the Electric Alloy Company.

Q What did you do that night? A I cannot tell you. I went home and probably went to bed, probably took a walk.

Q What day of the week was it? A I do not know.

Q You do not know? A No.

Q There is nothing to call it to your attention? A No.

Q What is there to remind—

Mr. Kavanagh: Why do you not wait until he finishes. I object to this man cutting him off.

The Court: He has answered the question.

Q What is there that recalls July 10th to your mind? A I simply know he was there, and he went after me. I use my pads for the dates.

Q Now, you say your daughter lived at home all the time? A Yes, sir.

Q Wasn't she confined in an institution at one time?



Mr. Kavanagh: I object to that, if the Court please, as improper cross examination and immaterial, irrelevant and incompetent.

A Not that I know of.

The Court: He has answered not that he knew. It is in response to his own answer that she is home all the time.

Q You mean that she may have been and you not know it?

Mr. Kavanagh: I object, if the Court please.

The Court: Overruled.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A I cannot recall any time she was in an institution.

Q The State Home for Girls? A I don't get you.

Q In the State Home for Girls?

Mr. Kavanagh: I object to that again, if the Court please; it is absolutely improper and Mr. Fisch knows it.

The Court: Sustained.

Q Now, on July 10th is that the date when you went riding with your son-in-law? A The 10th, was that a holiday?

Q I don't know. A Neither do I.

Q Well, you remember all the days in the year; now, was it a holiday? A I cannot tell you, I cannot tell you anything but dates, I have to get dates.

Q Now, the date, July 10th, is a date, isn't it? A That certainly is.

Mr. Kavanagh: I object, if the Court please.

The Court: There is nothing objectionable in that.

Mr. Kavanagh: There is something objectionable as I look at it, your Honor. Mr. Keane, before this question started, was finishing an answer and he was cut off by Mr. Fisch.

The Court: No he said that he remembers dates, and Mr. Fisch said to him July 10th is a date.

Mr. Kavanagh: Your Honor, I refer to the former answer before that question was asked, when Mr. Keane was finishing his answer and was cut off in the midst by Mr. Fisch.

The Court: I do not recall it. You may make a note of it and bring in out on redirect.

Q And is that the date when you were out riding with your son-in-law? A I don't recall it; I can't remember that.

Q You don't know. Now, what date were you out riding with your son-in-law? A That I cannot remember.

Q You do not remember what date you were out riding with him? A No.





Q And you don't remember what day of the week it was? A I know it must have been a Sunday, my Sunday off. I only have every other Sunday off; that is how I got mixed up in this.

Q You have every other Sunday off and it must have been on your Sunday off. Now, you never have two Sundays off in succession, have you? A Never, no.

Q And you did not have two Sundays off in succession, did you? A No, sir.

Q Now, what Sundays did you have off in July? A That I cannot answer.

Q You don't know that? A No, sir.

Q Well, were you out riding with your son-in-law on the 17th of July?

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

A I don't know whether it was the 17th or not.

Q Were you out riding with him on the 18th of July? A I cannot tell you.

Q Were you out riding with him on the 25th of July? A That I can't tell you.

Q Were you out riding with him on the 11th of July? A I can't tell you.

Q You don't know whether it was the first or the second or the third or the fourth Sunday that you were out riding with him? A No.

Q And you don't know whether it was a Sunday in June? A No, I do not.

Q Or in August? A I can't tell you.

Q Now, this car, how many seats are there? A Two seats, as far as I can see.

Q It is a coupe, isn't it? A I guess it is.

Q And there weren't any extra seats in it, were there? A No.

Q When you went out with him? A No, sir.

Q Who was with him when you went out with him? A That I can't tell you, who was with me, I guess my wife and two daughters went most of the time that I went.

Q And if you would go with him on one Sunday you could not go the following Sunday because you would be working? A That's the idea.

Q And did anybody drive that car outside of your son-in-law? A No, sir.

Q And when he was not driving it it was out in front of your house? A That's it.

Q All the time? A Yes, sir.

Q Now, were you out riding with your son-in-law on the 4th of July? A No, sir.

Q You were not? A No, sir.

Q Why not? A I was working.

Q Well, were you out riding with him the following Sunday? A I cannot tell you; I don't know whether it was my Sunday off or not, I cannot recall.

Q Well, you were working on the 4th of July, you say? A Yes, and then I would have to work the next Sunday again if it was my Sunday on.

Q And then you don't know whether you were out with him the following Sunday or not? A After the 4th of July?

Q Yes. A I cannot tell you, no.

Q On the Sunday after that? A No doubt but what I had that Sunday off.

Q Well, now, were you or weren't you? A That I can't say.

Q You don't know? A No.

Q And you know he was up in Morristown on the 4th? A He was there at night when I would come home, yes, sir.



Q And was he there on the 5th? A Yes, sir.

Q Were you working that day? A Yes, sir.

Q What time did you go to work on the 5th? A I left at 5:30 and was at the plant at 6:00 o'clock.

Q In the morning? A Yes, sir.

Q What time did you get home? A Maybe 6:30 at night.

Q Did you come home for lunch? A No, sir.

Q Was he there when you got home? A Yes, I cannot recall whether he went for me or not, but I know he was there, he was in the house.

Q Now, what time did you get home? A That I cannot tell you.

Q You do not know what time you got home? A No, sir; I cannot tell you the exact time, between 6:00 and 7:00.

Q Now, this paper that you read about this murder of Mr. Condit in, what color was that paper? A White. It was a white sheet.

Q A white sheet? A Yes, with a funny part on it, I presume, a folding book like.

Q I didn't ask you whether it was a folding book like. A I am going to tell you it was the New York News.

Q And it was a white paper? A No doubt it was.

Q No doubt about that? A I am not a color man. I cannot tell the first thing about color. It was a white sheet of paper, regular newspaper, in book form. It was printed.

Q Was there a long article about this murder? A No, a short article.

Q Very short article? A Quite short, yes.

Q It didn't give much of the details? A No.

Q What did it say? A That I cannot tell you, what it said; the only thing I know about

it, it was a hold-up and murder at the Reid Ice Cream Company.

Q That is all it said? A It probably said a lot more, but that is all I can recall.

Q Now, you did not read about that until you got in the house? A Yes, I read it in the plant and showed it when I got in the house.

Q You did not say anything about it until you got in the house? A What should I say anything about it before that?

Q Well, I am asking you, did you? A No.

Q Did your son-in-law call for you that night? A I cannot recall that he did. I do not know. I do not remember. I do not think he did.

Q You do not think he did? A I do not think he did.

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ISABEL KEANE, sworn in behalf of the defendant Nicholas Joseph Juliano.

*Direct examination* by Mr. Kavanagh.

Q You are the wife of the former witness, John Keane? A Yes, sir.

Q Where do you live? A I live in Morristown, McCullough avenue, 4.

Q How long have you lived in Morristown? A About forty years.

Q How long have you been married? A I am married over thirty-five years.

Q Thirty-five years? A Yes.

Q Where did you live before you moved to Morristown? A Orange.

Q And you were married where? A In Seton Hall College, South Orange.



Q I presume you were employed there? A No; I used to go to chapel.

Q And you were married in the chapel? A Yes, Father Sloane married me.

Mr. Fisch: I do not see the materiality.

The Court: It is not material.

Mr. Kavanagh: Strike it out.

Q Now, what does your family consist of? A I have five children altogether. One is James. He lives in West New York.

Q Is he married? A Yes, and I have two girls, Florence, Anna and the girl Loretta, Marion.

Q And Marion is married and lived in Morristown? A Yes, Harrison street.

Q And your daughter Loretta, how old is she? A She is twenty-four now.

Q And she was born in Morristown, too? A Yes.

Q And do you know when she was married to this defendant, Nicholas Joseph Juliano? A Yes.

Q Tell the Court and jury when she was married. A Well, she was married about six years ago. My husband made a mistake. We never wanted her to marry him.

Q But do you know where they were married?

The Court: She was not there; I suppose it is hearsay.

Q When did you ascertain the marriage of your daughter, Loretta, to Mr. Juliano; how long after they were married? A I knew it that evening.

Q That same evening? A Yes.

Q Now, has your son-in-law, Nicholas Joseph Juliano, been in the habit of visiting your home in Morristown? A He was coming there all summer, pretty much.

Q And is this the first summer he visited your home? A Yes. We are not on very good terms.

Q Now, coming down to the summer of this year, when did he first begin to visit you at your home? A He took me to the burying ground on Decoration Day in his car to my son's grave.

Q What burying ground? A In Morristown.

Q How long did he stay in Morristown over Decoration Day? A Oh, he stayed four or five days.

Q Four or five days? A Yes.

Q And do you know whether he ever visited your home in Morristown subsequent after Decoration Day? A Oh, yes.

Q When did he visit your home? A Well, I could not exactly say. Every week-end he came, but he generally went away on Wednesday.

Q And do you know how he went to Morristown? Did he go by train or auto? A No; his car.

Q He used his own car? A Yes.

Q And when he came there in his car, did he park the car outside of your home? A Right in front of the house. It stayed there all the time.

Q All the time that he came there he left the car outside? A Yes, sir.

Q Now, during the month of July did he come to your home at Morristown? A He came to my home in Morristown; he came the 17th, on a Saturday; he stayed on Sunday and he stayed



on Monday and he stayed Tuesday and he stayed Wednesday until about—he slept, I guess, until about a quarter of twelve and then he got up and some lunch and he went out and he came back in the evening again.

Q Do you know what day the 17th of July fell on, Mrs. Keane? A Saturday.

Q And do you know what time Nicholas arrived at your home on Saturday, July 17th? A He came about twenty-five minutes of five.

Q In the afternoon? A Yes, sir.

Q Sure of that, are you? A Yes, positive.

Q There couldn't be any mistake about it? A No, sir, not a bit.

Q Now, did he remain over Sunday, the 18th? A No, he did not; he went away on Wednesday.

Q I mean he was there on the 18th; the day that he came Saturday, the 17th; is that right? A Yes, sir.

Q And he was there Sunday, the 18th? A Yes, sir.

Q And Monday, the 19th? A And Wednesday.

Q And Tuesday, the 20th, and he left on Wednesday; is that right? A Yes, sir.

Q Now, he came back again on Wednesday night? A Yes, sir.

Q Now, when he came to Morristown, where did he sleep? A He slept in the room right off of my parlor.

Q With whom? A With my daughter Loretta.

Q Now, coming down to the 19th of January, Monday morning, do you know what time Mr. and Mrs. Juliano, your daughter and son-in-law, went to bed the night before? A The 19th of January?

Q The 19th of July? A Oh, the 19th of July; well, they did not go to bed until about one o'clock; they had some sandwiches and coffee.

Q They went to bed at one o'clock in the morning? A Yes, sir.

Q What time did you get up in the morning? A I always get up at half-past four.

Q Why do you get up so early? A Well, my husband has got to be in the plant early to check the men in.

Q And you get up, I presume, and make his breakfast? A Yes, sir.

Q Well, what time does he get up? A Well, he gets up ten or twenty minutes after I get up and I have a fire started.

Q And do you know what time your son-in-law and his wife, your daughter Loretta, got up in the morning in July 19th, Monday morning? A Yes, she got up at a quarter of twelve; he got up first and she got up after.

Q Was Nicholas Joseph Juliano, your son-in-law, out of your home at 4 McCullough avenue, Morristown, on the morning of July 19th, Monday morning, at ten o'clock? A Well, Mr. Kavanagh, how could he be out of my house if he did not get up until a quarter to twelve or until twelve o'clock, a quarter of twelve.

Q And you were at home all the morning from half-past four, the time you got up, until you saw him get up at a quarter of twelve; is that right? A Yes, sir.

Q Did Nicholas ever take you out? A I am not very fond of riding in cars, and I do not go very often, but my husband went generally every Sunday evening, when he is home; sometimes he got home late and he is tired; he had to work very hard.



Q Mr. Keane has to work a couple of Sundays a month, doesn't he? A Yes, two Sundays a month.

Q And does he work two Sundays in succession or does he have a Sunday off intervening? A No, he never worked two Sundays in succession, but, of course, there is sometimes he has to work.

Q And you say he used to go out Sunday evenings? A Yes; sometimes he went out Sunday evening about half-past eight until eleven o'clock.

Q And you say you did not care for riding? A Yes; I went once or twice, but I don't care much for riding.

Q Do you know where you go to when you went riding? A We went to Morris Plains and we went to Bernardsville, and there is some place down the road where they get beer; I really don't know the name of it.

Q Some kind of a restaurant or hotel? A I think it is; I never was in there.

*Cross examination* by Mr. Fisch.

Q Mrs. Keane, you said on your direct testimony that you never wanted your daughter to marry this defendant? A Decidedly, yes, sir.

Q Why not? A Well, because I did not want her to marry outside of her nationality. She is an American and this son-in-law of mine, he is an Italian.

Q Any other reason? A No, no other reason; he is a very nice boy as far as I know him; I never seen anything bad about him.

Q Well, you were not on very good terms, were you? A Well, I was not on very good terms for a while after she got married.

Q Didn't you say on your direct examination that you were not on very good terms? A Yes, I did, when they first got married.

Q And that is so, isn't it? A Yes, very true.

Q That is the first time that he came up to visit your home? A Yes, sir.

Q This was the first time that he came up there and spent week-ends? A No; he stayed a week after he was married.

Q Well, that was some five or six years ago? A Yes, sir.

Q But since that time up to this time this is the first summer he has ever been up to your home to spend week-ends, is it not? A No, sir.

Q And did you know whether your son-in-law had another wife? A Oh, no, I did not know it.

Mr. Kavanagh: I object.

The Court: She has answered the question.

Q Did you know whether or not your son-in-law had ever been divorced?

Mr. Kavanagh: I object.

The Court: Sustain the objection.

Q Do you know now that your son-in-law has another wife today?

Mr. Kavanagh: I object.

The Court: Sustained.

Q Now, you say that your son-in-law is a very nice man? A Well, as far as I know.

Q You knew he was in jail? A I don't think he was in jail. I think she was married to him before he went to jail.



Q I know, but you know he has been in jail since you say your daughter was married to him? A Yes, but you can be very good and go to jail.

Q What is that? A Many a good man goes to jail.

Q And the fact of his being in jail did not change your opinion of his being a very nice man? A He was always nice in my home.

Q That did not change your mind, the fact that he was sentenced to jail? A Yes, but there is a good many more like him, but he was in jail for bootlegging.

Q Will you answer my question? A Yes.

The Court: Do not volunteer. You said he was in jail for bootlegging. Strike it out.

Q Did that change your opinion, that he was a very nice man? A No, it didn't.

Q Did you know that he had been convicted of selling dope? A No, I didn't know that until just now.

Q What did you think he was in jail for? A I told you, selling drink, liquor.

Q And you say now is the first time you know he was in jail for selling dope? A Yes.

Q In spite of the fact that he was your son-in-law all the time? A Yes, I never knew he sold dope.

Q Does that change your opinion of his being a nice man?

Mr. Kavanagh: I object.

The Court: Sustain the objection.

Q Mrs. Keane, have you any reason to remember any particular dates? A Well, he was up in my place on Decoration Day.

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

The Court: That is her answer. That is her reason.

Q Well, you know he was up there Decoration Day and is that the only date you have a reason to remember? A I remember the 17th, 18th, 19th, 20th and 21st.

Q Well, now, do you remember the 10th of July? A Yes.

Q What makes you remember that? A Well, different things in my household.

Q Well, what makes you remember that date, that he was there that day? A Well, I probably was sending out for things, and I put the date down so I would have the bills at the end of the month, and I would know whether I got them.

Q Well, you often do that? A Yes.

Q That would not make you remember that date? A Yes.

Q And would that connect up the fact that he was there? A Yes, he was there.

Q Well, would that connect it up for you? A Well, just because I know he was there. That is all.

Q What kind of a day was it? A I don't know.

Q You do not know whether it was fair or rainy? A That I could not tell you.

Q And was he there on the 10th of June? A Well, he might have been, but I cannot think back as far as that.

Q You do not know? A No.

Q Was he there on the 24th of June? A I could not tell you that.



Q Was he there on the 25th of August? A Of What?

Q Of August? A Yes.

Q How do you know? A Because we were in Dover.

Q On the 25th of August? A Yes.

Q What day of the week was that? A The 15th of August.

Q The 25th? A Oh, the 25th. I could not really tell you.

Q You do not know whether he was there or not? A Yes, I know he was there pretty much all August.

Q You do not know what day of the week the 25th of August was? A No, I really do not know.

Q And you do not know whether he was there on the 25th? A I say he was there all August.

Q The whole month? A No, the middle of August, and I was up to Dover on the 15th.

Q Was he there the 25th? A I could not tell you. I suppose he was.

Q Well, the 15th of August; was that somebody's birthday? A No.

Q Well, what makes you think it was the 15th? A Well, I guess it was some kind of an Italian affair.

Q Now, the 10th of July, was that any kind of an Italian celebration? A No.

Q Was that any kind of a holiday? A No.

Q Is there any reason why that date should be impressed on your mind? A I can't remember.

Q Now, he was there on the 14th of July? A Well, I cannot remember.

Q You cannot remember that? Was he there on the 16th of July? A No, he was not.

Q What makes you remember that? A Well, because I know he was not there in July. Week-ends he would always come up and go away on a Wednesday.

Q Well, you figured out whether or not that was a week-end, is that right? A Yes.

Q Was he there on the 5th of July? A No, he was not.

Q He was not there on the 5th of July? A No.

Q Was he there on the 4th of July? A No, he was not.

Q Wasn't there all day the 4th or the 5th? A No.

Q You are sure about that? A I am positive.

Q And was he there on the 17th of July? A I think that was on a Saturday, yes, the 17th, and he was on the 18th.

Q First you thought it was on a Saturday and then you say he was there, you figured first whether it was a Saturday or not? A Why, no. I know it was a Saturday because I had business of my own to attend to.

Q The point about it is, Mrs. Keane, that it was a Saturday, you say, because he was there because it was a week-end? A No, it was the 17th, I was expecting a check and I had to have it such a time, and that is how I remember those days that he was there.

Q That is the way you remember the 17th? A Yes, sir.

Q What time did he get there? A He got there about, I think, about five or ten minutes of five.

Q What is that? A Five or ten minutes to five on the 17th.





Q Was your husband at home when he got home? A My husband is never home until after 6:00 o'clock; he has got to let all the men out.

Q So your husband was not home? A No, he was not home until about five or ten minutes past six.

Q Now, you went riding once or twice with your son-in-law in your son-in-law's car? A Yes.

Q Just once or twice? A Well, it might be three times, but I don't think so.

Q When was the last time you went riding with him? A Well, I can't remember that.

Q When was the first time? A Decoration Day he brought me to the cemetery to my son's grave.

Q When was the next time after that? A Oh, yes, I went to Dover on the 15th in his car.

Q The 15th of August? A Yes, sir.

Q And that was the next time after Decoration Day, is that right? A Yes.

Q And you have not been out in your son-in-law's car from Decoration Day until the 15th of August? A No, not I.

Q You had not been anywhere? A No, sir.

The Court: When your son-in-law would come home to your home at Morristown, you said he would stay until Wednesday; would he remain in the house all of the time?

Witness: All of the time.

The Court: Never go out?

Witness: Oh, yes.

The Court: Did he ever drive his car away then?

Witness: He would drive his car uptown and if there was anything at the store he would go to the store and get it for me.

The Court: And be away for a long period of time?

Witness: No, sir.

The Court: Did you keep watching him all the time?

Witness: No, I would ask him to get the things and he would have to be back in five or ten minutes.

The Court: No; I mean aside from the time when you would ask him to go to the store, did you keep check on his whereabouts?

Witness: No, he never stayed for more than ten or twenty minutes at the latest.

The Court: Well, what would he be doing?

Witness: Well, I will tell you what he would do; my son had a young baby and I had the baby there and he was taken up very much with the baby, and him and my daughter also.

The Court: That is how he would spend his time?

Witness: Yes, and he would take her out driving quite often.

The Court: Then he would drive during the day?

Witness: With my daughter, yes; my two daughters.

*Re-direct examination* by Mr. Kavanagh.

Q Mrs. Keane, you said that Nicholas, your son-in-law, was not in Morristown on the 4th of



July? Do you remember what day the 4th of July fell on? A Oh, yes, on Sunday.

Q Was he, as a matter of fact, in Morristown on the 4th of July? A Yes, he was. I told a story then, but the best people make mistakes, you know.

Q You said Nicholas was not in Morristown on the 5th of July? A Why, certainly he was.

Q Well, why do you correct yourself now; you told the prosecutor a moment ago that he was not in Morristown on the 4th of July? A Yes, Mr. Kavanagh, but the best of people make mistakes. I did not come to tell any story or falsehood about it, but just to tell the truth.

The Court: Just answer the question.

Q As a matter of fact, he was in Morristown on the 4th of July? A That is my mistake, and I am very sorry but I cannot help it now.

Q And they celebrated the 4th of July on the following Monday, which was the 5th? A Yes, sir.

Q Was he there at that time? A Yes, sir.

Q And there was no mistake about that? A No, sir, no mistake.

*Re-cross examination* by Mr. Fisch.

Q And were you home all day on the 5th of July? A Yes, I never leave my house; I am always home.

Q And was he there all day on the 5th of July? A Yes, sir.

Q There isn't anything else in your testimony that you are mistaken about and which you wish to correct? A No, sir; I am very sorry I made that mistake.

*Isabel Keane, re-direct.*

Q That is the only mistake you made? A Yes, sir.

*Re-direct examination* by Mr. Kavanagh.

Q Did Nicholas ever leave your home in Morristown to go to a ball game?

Mr. Fisch: Objected to as leading.

The Court: I will allow it, Mr. Kavanagh, but it is very leading.

Q Do you recall any occasion when Nicholas was at your home and went to a ball game? A Yes, my husband went with him and my brother-in-law who lives in Weehawken went with him.

Q What is your brother-in-law's name? A His name is Thomas T. Keane; he went with him.

Q Who else? A My brother-in-law Joe.

Q What is Joe's last name? A Keane.

Q And they went in company with Nicholas to a ball game some time during the summer? A Yes, sir.

Q Do you remember when that some time was? A I cannot tell you the date, but it was a Sunday. My husband was not working on that Sunday.

The Court: It was a Sunday?
Witness: Yes, sir.

Recess from 1:05 to 2:05.

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*Florence Keane, direct.*

AFTER RECESS.

Continued pursuant to adjournment.

Present, counsel as before stated.

FLORENCE KEANE, sworn in behalf of the defendant, Nicholas Joseph Juliano.

*Direct examination* by Mr. Kavanagh.

Q Where do you live? A 4 McCullough avenue, Morristown.

Q And how old are you? A Seventeen years old.

Q And what is your business, if any? A I have been going to Drake's College.

Q Where? A Orange, New Jersey.

Q And are you a daughter of Mr. and Mrs. John Keane, the witnesses who testified this morning? A Yes.

Q And are you a sister-in-law of the defendant, Nicholas Joseph Juliano? A Yes.

Q And your sister Loretta was married to Nicholas Joseph Juliano? A Yes.

Q Some years ago? A Yes.

Q And were you born in Morristown? A Yes.

Q Now, in the summer of this year, 1926, were you living with your father and mother at 4 McCullough avenue, Morristown? A Yes.

Q And were you continuously at home during the summer? A Yes.

Q When I speak of the summer, I mean from May on. Were you ever living at any other place outside of the home of your father and mother? A Well, we did live on Steeple avenue.

Q I mean this year. A No; we lived on McCullough avenue all this year.

*Florence Keane, direct.*

Q How long have you lived on McCullough avenue? A About eight or ten years.

Q And did you ever see your brother-in-law, Nicholas Joseph Juliano, at your mother's house at 4 McCullough avenue, Morristown? A Yes.

Q Did you ever see him at your mother's house at 4 McCullough avenue during the past summer? A Yes.

Q Will you tell the Court and jury, if you please, when you first saw him at the beginning of the summer of 1926 at your mother's house at Morristown? A Why, my brother-in-law always came up during the summer months every week-end—up to our home at 4 McCullough avenue, Morristown.

Q And was his wife with him on the occasions that you state? A Yes.

Q Your sister Loretta? A Yes.

Q And can you remember on what day or days he was in the habit of coming to your mother's house? A Why, he came up every Saturday night and he stayed until some time Wednesday, but he never went away on Monday.

Q He never went away on a Monday? A No.

Q Do you recall what day the 4th of July of this year fell on? A It fell on a Sunday.

Q Was your brother-in-law at your mother's house in Morristown on Sunday, the 4th of July? A Yes.

Q Do you recall when he arrived at your mother's house; do you remember the 4th of July, whether he came the day before? A No, he came on a Saturday around a quarter to five.

Q In the afternoon? A Yes.

Q And in reference to you—withdraw that. How long did he remain on that occasion? A Why, he came Saturday night, Sunday, Monday, Tuesday and stayed until Wednesday.



*Florence Keane, direct.*

Q And do you remember on the occasion of this visit he and some friends of his went to a ball game? A Yes, he went to a ball game on Monday afternoon, the day after the 4th. He went to the ball game July 5th.

Q I understand that July 4th falling on Sunday was celebrated on Monday? A Yes.

Q And do you know of your own personal knowledge who went with him to the ball game on the 5th of July? A Well, he left alone.

Q He left alone? A Yes.

Q And when did he return to Morristown? A Why, he came back that night around seven o'clock.

Q Now, do you remember when he left that week? A Why, he left on a Wednesday, and then he came back at night.

Q And then, when he left again, do you know that? When did he leave again? A Well, I can't recall that.

Q Did he come to Morristown on the following Saturday, which was the 10th of July? A Yes.

Q And how long did he remain on that occasion, if you know? A Why, he went on Wed—Saturday, Sunday, Monday, Tuesday and Wednesday and went on Wednesday.

Q And do you recall whether he came to visit your mother and his wife on the following Saturday, the 17th? A I do not recall that.

Q Do you know what day the 17th was, the 17th of July? A I cannot recall that, either.

Q You cannot recall that? A No.

Q Now, when he came to visit your mother's house, did he sleep there overnight? Did he stay continuously there? A Yes.

Q And did he occupy a room there with his wife? A Yes.

Q What room did he occupy? A The room next to the parlor.

Q Next to the parlor? A Yes.

Q Now, were you in the habit of going out riding with him at any time? A Yes.

Q When he came there? A Yes.

Q Oh, by the way, do you know how he went to Morristown—whether he went by train or auto? A Why, he went by auto.

Q He went by auto? A Yes.

Q And what was the next week-end that he visited your parents at Morristown after the 10th of July? A I cannot recall that.

Q When was the next week-end that he visited your parents at Morristown after the 10th of July that you recall? A I cannot recall that.

Q Do you recall the 19th of July? A Yes, sir.

Q You know what day that fell on? A That fell on a Monday, didn't it?

Q On a Monday? A Yes, sir.

Q Did you ever read anything about this Reid robbery? A No, sir.

Q You did not read anything about it? Did you ever hear anything read to you about it? A My father brought a paper home from work.

Q Do you recall, Miss Keane, when your father brought a paper home from work in which he read about the Reid robbery? A Yes, sir; he brought that home on a Tuesday.

Q Now, referring to that Tuesday that your father brought a paper home in which he read about the Reid robbery, was your brother-in-law Nicholas Juliano at your home in Morristown? A Yes, sir.

Q And how long had he been at your home? A He had been there since Saturday.





Q And I understand that the date, as testified in this case of the Reid robbery and hold-up was on Monday, July 19th, about ten o'clock in the morning. From your knowledge of the whereabouts of your brother-in-law on Monday can you tell where he was? A Yes, sir.

Q Where was he? A He was in bed.

Q Where? A At our home.

Q How do you know that, Miss Keane? A Because I know; I was up ahead of him.

Q What time did you get up that morning? A I got up around nine o'clock.

Q And where was he sleeping on this Monday the 19th? A The room next to the parlor.

Q And was his wife sleeping there with him? A Yes, sir.

Q Your sister Loretta? A Yes, sir.

Q Now, referring to that Monday, when did he come to your parents' house? You testified the previous Saturday; is that right? A Yes, sir.

Q And that was the 17th of July? A Yes, sir.

Q Yes testified that he came about 5:30 in the afternoon; is that right? A Yes, sir.

Q You did not leave your home on Saturday afternoon or evening, did you, around five o'clock? A No.

Q And you did not leave your home on Sunday? A No, sir.

Q I mean to go out of town? A No, sir.

Q To go away from Morristown, your parents' home? A No, sir.

Q Do you recall whether Mr. Juliano left his home on Monday? A No, sir, he did not leave his home. I was with him all the time.

*Florence Keane, direct.*

Q And can you tell us from your best recollection what time he got up in the morning? A Yes, he got up at a quarter of twelve.

Q And you were at home on Monday? A Yes, sir.

Q Do you recall what time your sister Loretta got up that morning? A She got up the same time.

Q Now, did you ever drive to Bernardsville? A Yes, sir.

Q With whom? A With my brother-in-law and my mother and father and sister, my two sisters.

Q And do you recall on what days you drove to Bernardsville? A No, I cannot recall that; I know we went on Sundays, different Sundays.

Q Did you ever drive in the evening? A Yes, sir.

Q And Sunday evening, was it? A Yes, sir.

Q Where does your father work, Miss Keane? A The Electric Alloy.

Q And how long has he been working there? A Around twelve years.

Q And with reference to your home, how far is the Electric Alloy building or company? A Oh, I don't know how far it is; it is not very far.

Q Well, would you say a mile or a half a mile? A Well, about a mile.

Q And when your brother-in-law was visiting your people in Morristown do you know whether he would ever go over to your father's place of employment to take him home? A Yes, sir, he would go over to meet him after work at six o'clock and at different occasions I would go over with him—my sister and I would go over with him.

Q Loretta and yourself? A No, sir; Anna and myself.



*Florence Keane, cross.*

Q Now, Miss Keane, you say that your brother-in-law came up every week-end to Morristown? A Yes, sir.

Q And you say that he generally remained two or three days at a time? A Yes, sir.

Q And on any of the occasions which he came to Morristown did he ever leave on a Monday morning, do you know? A No.

Q You are sure he did not leave your father's house on the morning of Monday, July 19th? A I am positively sure that he did not.

*Cross examination* by Mr. Fisch.

Q How many families live in this house where you live? A Six families.

Q What floor do you live on? A The first floor.

Q And there is another family that lives on the first floor, is there? A Yes, across.

Q Two families on each floor? A Yes.

Q Do you know the names of the people who live in the house? A Yes.

Q Do you know their names? A Well, right across from us is a Jewish family by the name of Dorfman, and up over is Mr. Salig and the other is not occupied now, and up over is Mr. Ganley and on the other side is another Jewish family, Mr. Leveman.

Q And they all lived there during this past summer? A Yes.

Q And when your brother-in-law came up to your house, he would come up in this Hudson brougham, would he? A Yes.

Q Blue Hudson brougham? A Yes.

Q And he would leave it out in the street? A Yes, in front of the house.

Q In front of the house? A Yes.

*Florence Keane, cross.*

Q In the street? A Yes.

Q Not in any driveway? A No.

Q And it would stay there all the while he was there? A Yes.

Q So that if he came up on a Saturday night and did not leave until Wednesday, that car would be out in front of the house from Saturday until Wednesday? A Yes.

Q Is that right? A Yes.

Q Sure about that? A Yes.

Q And it would be right in front of your house? A Yes.

Q And there is no reason, is there, why you remember any particular dates during the past summer? A No.

Q And nothing to impress upon your mind any particular dates, is there? A No.

Q One day is just the same as the other to you? A Yes.

Q And one Saturday was just the same as another Saturday? A Yes.

Q Of course, you heard them talk about this case at home? A Yes. With my father.

Q You talked it over? A Yes.

Q You talked it over last night? A Not last night.

Q Anybody up to your house last night? A No.

Q Wasn't the defendant's brother up to your house last night? A Yes. He came up to get us to come down here.

Q He came up last night? A Yes.

Q And he stayed over night? A Yes.

Q Did you talk it over with him? A No, I didn't.

Q Did you hear it talked over in his presence? A No.



*Florence Keane, cross.*

Q And you talked over these dates? A Not that I recall.

Q Not particularly last night; I mean, in talking over the case? A Yes, frequently.

Q Yes, and you talked over the dates? A Yes.

Q And you talked over the dates about the 19th of July? A Well, I can't recall that.

Q You talked over the dates about July 10th? A No, not about July 10th.

Q About July 18th? A No.

Q Or the 17th? A No.

Q What dates did you talk over? A Well, we didn't talk particularly about any dates at all that I can recall.

Q Well you talked over about coming down here to court and testifying? A Yes.

Q And you talked over the date on which this murder was committed, didn't you? A Yes.

Q And that was the date you were talking over, wasn't it? A Yes.

Q And that was the date you were talking over that your brother-in-law was up to your house? A Yes.

Q You did not have anything else to recall that date to your mind, did you? A No.

Q Now, did you go out automobile riding with your brother-in-law in June? A Yes, on different occasions.

Q And you did not recall the 17th of July, did you? A No.

Q You cannot recall it now? A No, sir.

Q And you cannot recall the 18th of July, can you? A No, I can't recall that either.

Q And you cannot recall the 9th? A The 9th?

*Florence Keane, cross.*

Q Yes. A No.

Q And you can't recall the 21st of July, can you? A Didn't that fall on a Wednesday, the 21st?

Q Well, do you know when it fell on? A Yes, I believe it fell on a Wednesday, but I am not sure.

Q You say it fell on a Wednesday? A Yes.

Q And do you recall that day? A Yes.

Q What makes you recall that day? A Well, I do not know, but I think it was the 21st.

Q Well, you think the 21st fell on a Wednesday, because you have heard the 19th was the day of this murder, and it was on a Monday, was that right? A Yes.

Q That is what makes you figure out that the 21st was on a Wednesday? A Yes.

Q There isn't anything that impresses that date on your mind, is there? A No.

Q And can you recall the 28th of July? A No, I cannot.

Q Can you recall the 23rd of June? A No, sir, I cannot.

Q Or the 26th of June? A No, sir.

Q Do you know what day of the week the 26th of June fell on? A No.

Q Do you know what day of the week the 14th of August fell on? A No, sir.

Q So that there isn't a thing in the world that you recall that would recall any dates to you during the summer, is there? A No, sir.

Q Do you know whether your brother-in-law came to your house on the 14th of August? A I can't recall that.

Q Do you recall whether he came to your house on the 20th of August? A I can't recall that either.



*Frank Juliano, direct.*

Q Do you know whether he came to your house on the 19th of June? A I can't recall that either.

Q Do you know whether he came to your house on the 25th of June? A I can't recall that.

Q Do you know whether he came to your house in the 14th of July? A I can't recall that either.

Q Or the 31st of July? A I can't recall that.

Q Do you know whether he came to your house on the 10th of July? A I can't recall that.

Q Do you know whether he came to your house on the 17th of July? A I can't recall that either.

*Re-direct examination* by Mr. Kavanagh.

Q Now, Miss Keane, you testified a few moments ago that your brother-in-law was in the habit of coming to your house on week-ends, is that right? A Yes, sir.

Q And the prosecutor has questioned you and asked you questions regarding certain dates in August, June and July, do you know on what dates those days fell on? A No, sir, I can't recall any dates.

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FRANK JULIANO, sworn in behalf of defendant, Nicholas Joseph Juliano.

*Direct examination* by Mr. Kavanagh.

Q Where do you live, Mr. Juliano? A 40 Fourth street, Newark.

Q And are you married? A Yes, sir.

Q Are you a brother of the defendant, Nicholas Joseph Juliano? A Yes, sir.

Q And do you recall July 10th of this year? A Yes, sir.

Q Did you have any occasion on that day to meet your brother? A No, on July 3rd I advanced my brother some money to buy a suit of clothes.

Q Now, tell us about that. A And the reason for that—I was paid off on a Friday, Friday evening, I am working for Thompson and Starrett, and I went up to the house that morning and he asked me if I had any money to buy a suit of clothes and I said, "I will do what I can for you." With that I took him down to the Peoples Clothing Company and he got a suit of clothes there on the 3rd day of July.

Q Did you meet him on the 10th of July? A Yes.

Q Where did you meet him? A I met him at the house.

Q At whose house? A My mother's house.

Q And did you go driving with him on that day? A I went driving with him on the 10th, yes, sir.

Q Who was present at that time? A My wife, myself, his wife and himself.

Q And where did you drive to? A Why, I think we drove out to around Singac.

Q Where did you stop? A Well, we took a drive around and stopped at some stand on the road there. I just don't know where.

Q No. Where did you start from? A We started from Newark.

Q Where? A Started from my place of business on Central avenue.



Q Well, where is that? A Well, at that time it was at 390 Central avenue.

Q And do you remember what time in the afternoon, July 10th, you started out with your brother and your wife and do you remember what time you got back? A We did not start out in the afternoon.

Q Well, what time was it? I am asking you. A Why, I believe it was after 8 o'clock.

Q In the evening? A In the evening.

Q And you drove up to Singac, didn't you? A Yes.

Q What time did you get back? A We got back around 10, 10:15, maybe a little after.

Q And where did your brother leave you and your wife? A He left me at my home.

Q Where? A 69 Burnett street.

Q In Newark? A In Newark.

Q About what time? A Between 10 and 10:30.

Q And you left him there? A Yes.

Q You don't know where he went to after that, he and his wife? A Well, he said he was going to Morristown.

*Cross examination* by Mr. Fisch.

Q So that the occasion when you advanced money to your brother for a suit, how much was that money? A $10.

Q It was $10? A That is what I gave him.

Q On the occasion when you gave him $10, to put down on the suit, that is what it was for, wasn't it? A Yes.

Q That was not the same occasion when you went riding with him to Singac and your wife? A What do you mean, that same day?

Q Yes. A On that same day, no.

Q No. That was not the same day at all. A What day?

Q Eh? A I gave him $10 on the 3rd day of July.

Q Well, now, on that day, did you go to Singac with him and your wife? A We took a ride around, I don't remember.

Q What is that? A I don't remember going to Singac. I said the 10th we went around Singac.

Q Well, I am asking you about the day you gave him some money to put down on a suit and you say it was $10, what time of the day was it you gave him that money? A It was in the morning.

Q And then did you see him again that day? A Sure I seen him that day.

Q Well, when did you see him again that day? A I seen him that day.

Q Did you see him that night? A I seen him that night.

Q And did you go riding with him that night? A I took a ride around.

Q Where did you go to? A Well, I just don't remember where we went to.

Q Who was with you? A My wife and his wife and myself.

Q And that was the same day on which you gave him the money for the suit? A That is the same day I gave him the money for the suit.

Q And what time did you get back? A Back to where?

Q Well, back to your house. A Back to my house?

Q Yes. A Well, we got back to my house that night.



Q Yes. A Around 10 and 10:30.

Q And you went to Singac, did you? A That I don't remember, going to Singac on that day.

Q Well, where did you go? A I do not remember where we went that day.

Q Well, did you go out riding with him on the 26th of June? A No, sir.

Q How do you know that? A Well, I do not remember.

Q Eh? A I do not remember.

Q You may have gone on the 26th of June? A I don't remember that.

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

Q You do not remember whether you did or not, is that it? A On the 26th of June?

Q Yes. A I did not; I don't remember.

Q Well, now, which is it, you did or you don't remember? A Well, I don't recall any of them dates.

Q You do not recall anything about it? A Not on the 26th.

Q How about the 19th of June? A I don't know.

Q You do not remember? A I do not remember.

Q You may have gone riding with him? A I cannot say that, no.

Q You cannot say whether you did or whether you didn't? A I cannot remember whether I did or not.

Q And how about the 15th of June, did you go riding with him then? A No.

Q You are sure about that? A Sure.

Q Positive? A Yes.

Q What about the 1st of July, did you go riding with him then? A No.

Q But you are certain, are you, that the defendant, when you gave him the money to put down on the suit, was a different day from the time when you went riding with him to Singac? A Yes.

Q And you left him at the time you went riding with him to Singac, you left him about half-past ten and you don't know where he went? A When I went up around Singac, that is another day.

Q That is another day from the time when you gave him the money for the suit and when he got the suit? A Another day, yes, on the 3rd of July I advanced him the $10.

Q And is that the day on which he got the suit? A That is the very day he got the suit.

Q Let me see whether we are clear on this now. You say you gave him the money, this $10 to put down on a suit on the 3rd of July? A I gave him $10 on the 3rd of July, yes.

Q And that is the same day on which he actually got the suit, isn't it? A Yes.

Q That is not the day on which he went to Singac? A No, sir.

Q Have you ever been convicted of crime? A No, sir.

Q Weren't you ever convicted of desertion and non-support? A Well, I have, yes. That ain't no crime, is it?

Q You have at times? A Is that a crime?

The Court: Where did you give your brother the $10?

Witness: At my mother's house.

The Court: Did he stay at your mother's house on Friday, July 2nd?





Witness: Well, I went there on a Saturday morning.

The Court: What time?

Witness: Around maybe 10:00 or 11:00 o'clock.

The Court: Was he there then?

Witness: Yes.

The Court: What doing?

Witness: He wasn't doing anything.

The Court: In bed?

Witness: No, he was up.

The Court: 10:00?

Witness: 10:00 or 11:00 o'clock.

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GAETANNO JULIANO, sworn in behalf of defendant Nicholas Joseph Juliano.

*Direct examination* by Mr. Kavanagh.

(Through the interpreter.)

Q Where do you live, Mr. Juliano? A 29 Aqueduct Alley.

Q Are you the father of the defendant Nicholas Joseph Juliano? A Yes, sir.

Q How old is Nicholas? A Twenty-nine or thirty; I don't remember.

Q Did your boy serve in the army during the war?

Mr. Fisch: I object.

The Court: Sustained.

Cross examination waived.

*James Caprio, direct.*

JAMES CAPRIO, sworn in behalf of the defendant Nicholas Joseph Juliano.

*Direct examination* by Mr. Kavanagh.

Q Where do you live, Mr. Caprio? A 18 Drift street.

Q What is your business? A Why, I am not working now.

Q Do you know the defendant Nicholas Joseph Juliano? A Yes, sir.

Q How long have you known him? A Ten, eleven years.

Q Do you know the other defendant who is on trial in this case, Robert Boudreau? A I never seen him.

Q Do you know where the Riverside Cafe is at Jackson street and Market street? A Yes, sir, it is on Market street.

Q Were you in that cafe in company with others about the latter part of August or the first part of September of this year? A The 28th of August.

Q The 28th of August, this year? A Yes, sir.

Q And who were in your company at that time? A Why, I came out of the house; there is a club in the house where I live, and I met young Joe Juliano there, and I just came back the 26th of August; I came back from Virginia; I worked down there and, of course, I wanted to go back to Virginia again and, of course, I wanted to go back with a car, so I asked young Joe, I said, "Joe—

Mr. Bigelow: I object.

The Court: No, don't tell us.



*James Caprio, direct.*

Q Leave out what you asked him. You were in that place, the Riverside Cafe, on the night of August 28th? A Me, Little Joe and three other fellows.

Q What are the names of the other fellows? A Ralph Palino, John Palmeri and Willie Russamano.

Q And were there any young ladies in that cafe that night? A There were three young ladies in there.

Q And did any of the young ladies introduce herself to the defendant Nicholas Joseph Juliano in your presence that night? A Why, she wasn't no waitress there, but she waited on the table.

Q And who was that young lady that waited on the table? A I don't know her name; they called her "Peaches." That was the first night I ever seen her.

Q Peaches? A Yes.

Q Did you learn her name after that? A Right in there. They called her name; the boss of the place, Peaches, waited on the fellows that used to come in.

Q Where was she at that time? A Sitting at another table with two other girls.

Q Is that the girl Kathleen, called by the nickname? A Well, I don't know the name. I know one of the girls, but I don't know the name. She was not in the restaurant.

Q She was not in the restaurant? A No.

Q What happened that night as between this defendant Nicholas Joseph Juliano and this girl whom the proprietor asked to wait on the table? A Well, she waited on us and we ate, and after we ate he tried to make her, so I told him to leave her alone, and he said, "No, she is nice." "Well," I said, "Go ahead," so he asked her

to go out with him that night, and she said, "No, I have a date tonight; I will meet you tomorrow night," and so the next night he went himself. I didn't go with him.

The Court: Aren't you telling something that somebody told you, now?

Witness: No, sir.

*Cross examination* by Mr. Fisch.

Q So he picked her up, did he, made her? A Yes.

Q And are you the fellow that was supposed to go to Virginia with Juliano, take two girls to Virginia? A We wasn't supposed to take two girls to Virginia. I told him I needed a car down there in Virginia. I was working in an amusement park.

Q Well, you were going back to Virginia? A Yes. He promised me to go back with me, and after he made the girl, he would not go with me.

Q After he made the girl, he would not go with you? A No.

Q Have you ever been convicted of crime? A No, I have been locked up in a crap game.

Q What is your father's name? A Patsy Caprio.

Q What is his right name? A Patsy.

Q Isn't his name Pasquale? A Patsy.

Q What is your mother's name? A Mary.

Q Have you any brothers? A Two.

Q What are their names? A Joe and Ralph.

Q And did you have a brother Frank? A Yes, he is not here.

Q And weren't you convicted of receiving stolen goods? A No.



Q Didn't you plead *non vult?* A To receiving.

Q To receiving, in the April term, 1925, of the Essex County Court of Quarter Sessions? A No, not that I recall; I don't remember.

Q You were known as Bully? A Yes, still known as that name.

Q What? A Still under that name.

Q And you are still under that name? A Yes.

Q And weren't you put on probation for two years to pay 25c a week on the 28th of June, 1915? A I do not remember.

Q You do not remember? A No, sir.

Q Don't you remember being on probation? A No.

Q And didn't you know Philip Flagitone? A Yes.

Q Eh? A Yes.

Q And Carlo Tartogoline? A No.

Q And wasn't Philip in that case with you? A I don't know, sir.

Q What? A I don't know.

Q He was known as Philly Lewis? A Yes.

Q And do you remember Judge Osborne? A No.

Q Weren't you before Judge Osborne? A I do not recall; I do not remember.

Q You say you do not remember that? A Yes.

Q You do not remember being put on probation by Judge Osborne in June, 1915? A No.

Q And at that time you lived at 18 Aqueduct Alley, didn't you? A No, sir, I do not remember. I do not remember living at 18 Aqueduct Alley.

Q Well, where did you live then? A When?

Q In 1915? A 8 Sixth avenue.

Q Sixth avenue? A Number eight.

Q And your brother Ralph lived in Morristown, didn't he? A Pennsylvania, yes.

Q Your brother Ralph lived in Morristown, New Jersey, at that time? A Pennsylvania. He never moved from there, he still lives there.

Q And your brother Joe, he lived at 27 Aqueduct Alley? A No, sir.

Q And your brother Frank was living at that time? A Yes, 8 Sixth avenue.

Q And your brother Frank was living at that time, wasn't he? A Yes, 8 Sixth avenue.

Q Didn't he live at 18 Aqueduct Alley at that time? A Not that I remember.

Mr. Kavanagh: If the Court please, how is this cross examination.

The Court: Trying to bring to the witness' mind a fact by reference to other facts.

Mr. Kavanagh: I object to his asking where his brother lives.

The Court: I will allow the question.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q What was your business in 1915? A My business?

Q Yes. A I worked with my brother-in-law, milkman.



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

The Court: I will allow this.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, you know as a matter of fact that you pleaded *non vult* to receiving in June, 1915, and was put on probation for two years to pay twenty-five cents a week by the Honorable Harry V. Osborne, the presiding judge of this court at that time? A I don't remember.

Mr. Kavanagh: The defendant Nicholas Joseph Juliano rests.

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HAROLD F. GORMAN, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Gorman, where do you live? A 191 River Road, Nutley.

Q And how long have you lived there? A I lived at 191 River Road about seven years.

Q You live in Nutley how long? A Thirty-two out of thirty-three.

Q You are thirty-three years old? A Yes, pretty near thirty-four.

Q And what work do you do for a living? A I am at present employed by the Belleville Hudson-Essex.

Q Hudson & Essex Car Company? A Yes, sir.

Q How long have you worked for the Hudson and Essex? A Why, I have only been there a short while, about a little over a month or so.

Q Are you acquainted with Boudreau who sits over to my right here? A Yes, sir, I met him four or five times, maybe six times.

Q And did you meet him around the 1st of October, 1926? A The first time I met him was around the 1st of September, 1926.

Q That is the first time you met him? A Yes, sir.

Q Did you have a talk with him, do you remember when he was arrested? A Oh, I had a talk with him shortly before he was arrested, in fact I was speaking to him the night he went to Scotch Plains.

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

Mr. McGeehan: I consent.

Q Did you have a talk with him a few weeks before he was arrested? A Yes, sir.

Q Did he talk to you about what a dead town Nutley was?

Mr. Bigelow: I object. It doesn't seem to me that this is material.

The Court: How is it material, Mr. McGeehan?

Mr. McGeehan: The foundation has been laid for all of this. If the prosecutor wants to refer to the record it is page 184. This is a witness who is discrediting or who is offered to discredit the witness Boudreau, the



foundation having been laid in these very words.

Mr. Bigelow: Even if the witness Boudreau did deny that he told this witness that Nutley was a dead town—

Mr. McGeehan: Oh, this is introductory, prosecutor. If you will refer to the record you will find that there were three questions preluding the main question on page 184.

The Court: Proceed.

(Question read.)

A Yes, sir.

Q During the conversation did you ask him who he knew in Nutley? A Yes, sir.

Q Did you ask him whether he knew Chris. Barone or Buck Joseph, the brother of Barone, who is a pugilist under the name of Buck Joseph? A Yes, sir.

Q And did he say, "No, that he did not know them"? A Yes, sir.

Q And this was sometime around when? A Why, it was a few nights after there was a fight.

Q Now, did you hear of his being arrested? A Yes.

Q Do you know about when he was arrested? Not necessarily the date, but is the time fixed in your mind? A I can tell you the date, it was the anniversary of my marriage.

Q What date was it? A The 16th of October.

Q Now, are you sure that this is the date of the anniversary of your marriage? A I am positive of that, maybe he was arrested a day or two before.

Q Do you know it was around that date? A Yes.

*Harold F. Gorman, cross.*

Q But you did hear of his being arrested? A Yes, I read it in the paper.

Q Just answer the questions yes or no when you can. A Yes.

Q Now, was the talk with him prior to that time? A Yes.

Q How long—about how long before that time? A Well, it was in September; maybe two weeks.

Q Well, was it in the month of September? A Yes.

Q Did you ask him also whether he knew a lot of other persons in Nutley whom you knew? A Yes.

*Cross examination* by Mr. Bigelow.

Q What business were you in before you were with the Hudson and Essex? A Why, I ran a restaurant at 52 Washington avenue, Nutley.

Q Is that a lunch wagon? A No. I did own a lunch wagon in Belleville, 108 Washington avenue, but that was a year ago.

Q And how long did you have the restaurant? A Oh, I was running the restaurant a few weeks.

Q Who were you in the business with? A Nick Marone.

Q Is that the same man as shown as Number One in this photograph? A No. That is Carl Bielke. Nicholas Juliano and Bob, the four of them, I know them all.

Q Do you know Chris. Barone? A Yes.

Q Do you know Capozzi or Ruff? A No.

Q You do know Chris. Barone? A Yes.



*Jeanette Sorensen, direct.*

*Re-direct examination* by Mr. McGeehan.

Q You never know Chris. Barone in connection with any other men you know? A No, I only know him because he lives in the house I was born in and I used to go up there occasionally to collect money due my mother.

Q And you know the other man very well? A Yes, I met Bielke the time he used to hang out with Bob.

Q And Bob is Boudreau? A Yes.

*Re-cross examination* by Mr. Bigelow.

Q Do you know Little Joe? A Yes. I worked with him at the Tubes in the taxicab business about two years ago.

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JEANETTE SORENSEN, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A 132 Greylock avenue, Belleville.

Q And who do you live with there? A My mother.

Q With your mother? A My mother and my two brothers.

Q You were taken into custody at or about the time that Boudreau was arrested, were you not, by the police of Newark? A No. I went there myself.

Q What? A I went to police headquarters myself.

Q Well, you were in police headquarters? A Yes.

Q And your name was in the newspapers? A Yes.

Q And after your name was in the newspapers, were you subpoenaed in this case? A Yes.

Q And you are here under subpoena of the defendants? A Yes.

Q You knew the witness Boudreau in this case, did you not? A Yes.

Q How long did you know him? A I knew him about a year and four months.

Q When did you first know him, and when did you last know him? A I met him in July, 1925.

Q Since July, 1925? A Yes.

Q What name did you know him under then? A Robert Gordon.

Q Did you know him under any other names? A Robert Lambert.

Q Did he at one time propose marriage to you? A Yes.

Q Did you know he was married at that time when he asked you to marry him?

Mr. Fisch: I object.

The Court: I will allow it.

A No.

Q You have letters in your possession in which he proposed that—did you ever receive a letter from him in which he proposed?

Mr. Fisch: I object.

Mr. McGeehan: A foundation has been laid for it.

The Court: It is not every question that is rebuttable.



Mr. McGeehan: It is one we are entitled to rebut. I asked him the question on direct, and no objection was made to it, and he denied that he took dope, and he denied that he said to this girl that he took dope in a letter. I say I am entitled to introduce that.

Q Did you receive a letter from him in which he—

Mr. Fisch: I object.

The Court: Wait until the question is finished.

Mr. Fisch: Mr. McGeehan is about to give the contents of the letter, or the subject matter practically, of the contents of the letter.

The Court: When did you receive the letter?

Witness: Last August.

The Court: 1926.

Witness: 1925.

The Court: Sustain the objection.

Q Did you receive a letter from—the letter that you referred to in your answer to the Judge's question just now was a letter from Boudreau; is that right? A Yes, sir.

Q Were you familiar with his handwriting? A Yes, sir.

Q Did you know his handwriting? A Yes, sir.

Q Did you receive a number of letters from him?

Mr. Fisch: I object to that, if the Court please; I cannot see how that is material.

Mr. McGeehan: I am going to prove the destruction of the letter in question and secondary evidence of its contents. Your Honor has ruled on one previous question and I anticipate your Honor will rule against the admissibility of it, but I want to eliminate the objection that I concede exists, as to the contents, in the present state of the evidence.

Mr. Fisch: If your Honor please, even admitting the letter has been destroyed, I don't think it is evidential.

The Court: The only thing would be on the attacking of his credibility. I am not inclined to think that the contents at all would prove that.

Mr. McGeehan: May the record show that I am offering to show the authenticity of the letters and that I am prevented from doing that because proof of the letter is not in proper form so far as the method of proving it is concerned—

The Court: I will say this, in so far as you are endeavoring to prove it—

Mr. McGeehan: I will have to complete my endeavor to prove it. I just want to produce secondary evidence of the letter, and if your Honor rules that the letter is not admissible, regardless of how I submit it to the Court, that it cannot be used to contradict the witness on that point, then I will merely ask an exception.

The Court: Yes.

Mr. McGeehan: That is the ruling of the Court?

The Court: Yes, sir.



Mr. McGeehan: I will ask an exception.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. Kavanagh: I ask an exception, if the Court please, in so far as the defendant Nicholas Joseph Juliano is concerned.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: As I take it, Mr. McGeehan, this is a letter of 1925.

Mr. McGeehan: August, 1925, I think the witness testified.

Q Now, Miss Sorensen, do you remember being in a spaghetti house with Boudreau on Washington avenue, Nutley, owned by a man named Marone who has been referred to? A Yes, sir.

Q You remember being there with him? A Yes, sir.

Q When was that? How long before he was arrested? A It was two days before he was arrested.

Q Who else was there at the time? A Just myself and him, but there was other people in the back room.

Q You were in a back room?

The Court: No; she said she was with him, but there were other people in the back room.

Q Was there any other persons present at the time you were with him a couple of nights before he was arrested in that spaghetti house of Marone's? A No, sir.

Q You had been to Marone's spaghetti house a good deal with him, hadn't you? A Yes, sir.

Q And do you remember his saying to you he was nervous; that he was going out to take a couple of shots of dope, and he went to the toilet and he came out and told you he had taken some morphine?

Mr. Fisch: I object to that, your Honor.

The Court: I will allow it.

Mr. Fisch: It seems to me this is collateral also.

The Court: I know, but it is so close.

A Yes, sir.

Q What was your answer? A Yes.

Q That happened, did it? A Yes, sir.

Q Do you remember being with him the night before he was arrested? A Yes, sir.

Q Do you remember being in an automobile with him that stopped in front of a lunch wagon in front of Clay street and Broad street and that he called a man out of the lunch wagon and said he would be back later, "We got a big job on tonight"?

Mr. Fisch: I object to that, if the Court please. I think it is purely a collateral matter.



The Court: Yes.

Mr. Fisch: This is three months after the murder.

The Court: You are speaking now of the night before he was arrested?

Mr. McGeehan: Yes, sir.

The Court: Sustained.

Mr. McGeehan: I ask an exception.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. Kavanagh: I also ask an exception, if the Court please.

The Court: Granted to both.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. Fisch: And the other question on which I made objection related to a time three months after the murder.

The Court: Well, it was not raised at that time and it slipped my mind.

Mr. McGeehan: And that would go to a subject that might attack not only his condition at the time of the alleged commission

of the crime, but at the time of this statement?

The Court: Yes.

Q Can you tell us what the man looks like that he called out of that lunch wagon the night before he was arrested?

Mr. Fisch: I object.

The Court: Sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Can you tell us whether he was a tall man with light hair or not?

Mr. Fisch: I object.

The Court: Sustained.

Q How often did you go out with him? How often did you go out with Boudreau?

Mr. Fisch: I object.

The Court: I will allow that.



A What do you mean, lately, before he got arrested?

Q Well, yes. At that time. Tell us that first, how long did you go out with him and how often? A I was out with him every night before he got arrested from the Friday before.

Q And for how long a period had you been going out with him every night? A About two or three in the morning.

Mr. McGeehan: I will consent that that be stricken out. The witness did not understand my question.

Mr. Fisch: I am satisfied to have it in.

Mr. McGeehan: Oh, so am I.

The Court: Strike it out.

Q I said for how long a time had you been going out with him every night?

Mr. Fisch: I object. I do not see how that is material to this issue.

The Court: It might or might not be. I will admit it.

A I did not go out with him after about four months, since last January; I just met him lately, about a week before he got arrested.

Q All right. You said you had gone with him frequently. I think you said every night. Just turn this way so that your words can be heard. You have said that you went out with him every night or almost every night? A That is before he got arrested, only one week.

Q How long were you doing that before he was arrested? A Every night.

Q Now, how long before that had you seen him last? A Well, I seen him occasionally, but I never spoke to him.

Q You saw him occasionally? A Yes.

Q Were you on the outs with him? A Yes.

Q Now, how long a time were you on the outs with him? A About four months.

Q Now, during the week that you saw him every night before he was arrested, were you with Boudreau and a girl named Lillian, two or three nights before he was arrested, in a restaurant on Market street, Newark?

Mr. Fisch: I object to that. I cannot see how that is material.

The Court: I will allow it.

A Yes, I was.

Q Were you there together? A Yes.

Q And on that occasion, did he say to you that he took part in the Reid hold-up? A Yes.

Q Did he say to you that he pushed Condit off the running board and that he had the car painted somewhere right after the murder? A Yes.

Mr. Fisch: What page are you reading from?

Mr. McGeehan: Page 156.

Q Did he say to you that he did it in a Cadillac car? A Yes.

Q Now, at the time he said that, had he talked about other affairs that he was concerned in?

Mr. Fisch: I object.

The Court: Sustained.



Q And did you know his business pretty well? A No.

Q Did he talk about what things he did often?

Mr. Fisch: I object.

The Court: Sustained.

Q Did you know some friends of his? A I just know two fellows, Brownie and George.

Q Brownie and George you knew? A Yes.

Q Do you know Brownie's last name? A I think it is O'Connor, or something like that.

Q Brownie O'Connor? A I don't know if it is O'Connor, something like that.

Q And did you know this George? A Yes.

Q What did George look like? A He is tall, light-complexioned fellow, light hair.

Q And these were friends of his? A Yes.

Q Did you ever see or meet or know Chris Barone or Capozzi or Big Joe Juliano? A No.

Q Did you ever hear that man, Boudreau, mention their names? A No, I just heard him mention Little Juliano's name.

Q But did you ever hear him mention Joseph Juliano, or Barone or Ruff's name? A No.

Q You are here under subpoena served upon you? A Yes.

*Cross examination* by Mr. Fisch.

Q You know this man they call Buck Josephs? A No.

Q Eh? A Yes, I know Buck Josephs. I have seen him box. I have seen his name in the papers boxing.

Q Well, you know him, too, don't you? A Just by seeing him, that's all. I don't know him to speak to.

Q Didn't he speak to you in this court house? A Yes, but not much, a couple of times.

Q He spoke to you in the court house here, didn't he? A Yes.

Q He has spoken to you several times, hasn't he? A Well, just a couple of times that he spoke to me.

Q I thought you said you knew him by seeing his name in the papers? A Yes, sir.

Q And that's all you knew him by, isn't it? A Yes, sir.

Q You did not speak to him? A I spoke to him a couple of times in the court room here.

Q And you had been sitting next to him in the court room here, haven't you? A No, not right next to him.

Q In the same row with him? A There was a lot of people between us.

Mr. Fisch: Is Buck Josephs in the court room?

(A man in the audience rises.)

Q That is the fellow, isn't it (indicating Buck Josephs)? A Yes, sir.

Q And that is the fellow you have been speaking to in the court room? A Yes, sir.

Q And in the court house? A Yes, sir.

Q He is a brother of Chris Barone, isn't he? A Yes, sir.

Q You knew that, didn't you? A I knew it since I am coming here.

Q Now, you never saw Boudreau take any dope, did you? A No, I did not see him take it.

Q You never saw him have any instruments for any dope, did you? A No.



Q Who was present when he told you that he was going to take some dope? A There was nobody present only myself and he.

Q Just you and he, and that was two days before he was arrested? A Yes, sir.

Q What kind of a place was this where he told you he was going to take some dope and he then went into the men's toilet and said that he had taken some dope? A That was Nick Marone's spaghetti house on Washington avenue, Nutley.

Q That was the back room in this spaghetti house, was it? A There are two rooms in his spaghetti house.

Q How big is that room where you were when he told you that? A Just a small room.

Q How many tables are there in it? A About four.

Q How many people were in the room? A There was just Boudreau and I in the room.

Q Who were the other ones who were in the place? A There were people in the back room.

Q Who were the people in the back room? A Miss Marone and Carl Bielke.

Q Yes, who else? A That's all.

Q Just those two? A Yes, sir.

Q Is there a hot dog stand in the room where you were? A No, sir.

Q In the room where Marone was? A No.

Q The whole place used to be a hot dog stand, wasn't it? A I don't know.

Q Well, it is only a little bit of a place, isn't it? A Yes, sir.

Q Six people would crowd the place, wouldn't it? A No; about two dozen could sit there.

Q Well, six people would fill it up pretty well, wouldn't it? A No.

Q Ten people?

The Court: She said two dozen.

Q Ten people would fill it up, wouldn't they? A No.

Mr. McGeehan: I object. That is a relevant term when a place is filled up pretty well.

Q Now, you say you know this man Brownie whose name is Connor or O'Connor? A Yes.

Q When did you see him last? A I haven't seen him since last January.

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

Q And George, when did you see him last? A I haven't seen him since last January.

Q When did you see them with Boudreau? A They used to work in the garage with Boudreau.

Q You haven't seen them with Boudreau since last January, have you? A No.

Q And Boudreau was away in January, was he? A In January or February; I just don't know what month it was.

Q What was that? A It was January or February; I just don't know what month it was.

Q What is that? A It was January or February; I just don't know what month it was.

Q So, it was before last January that you saw Boudreau with this man Brownie and the man George that you refer to? A It was in the month of January.

Q And you are sure that you haven't seen Boudreau with any of these men since January, 1926? A No, sir.

Q Are you married? A No.

Q Were you ever married? A No.



Q And you knew that Boudreau was married, didn't you? A No, I didn't.

Q You knew it at the time of his arrest? A I didn't know it until the other day. I heard it in the trial here.

Q Who told you? A Well, I heard him say it himself.

Q Didn't you go down to police headquarters to see Boudreau after he was arrested? A Yes.

Q And weren't you aware at that time Boudreau was married? A He told me he was not married to that girl.

Q What? A He told me he was not married to Myrtle Foster.

Q You knew that he was living with Myrtle Foster, didn't you? A Yes.

Q And when you came down to police headquarters you were told he was married, weren't you? A Yes.

Q And you said, "That is all right. I am his sweetheart," didn't you? A Yes.

Q Were you his sweetheart? A Not then I wasn't.

Q What? A I wasn't his sweetheart, no.

Q Now, at the time you were down in some cafe and you heard Boudreau say something about the Reid job, had you been drinking? A No.

Q Well, the party had been drinking? A No, we had nothing but coffee.

Q Had Boudreau been drinking? A He drank coffee.

Q What kind of a place was this you were in? A Well, just go there and eat and dance.

Q What? A Cabaret.

Q And you just had coffee there? A Coffee and something to eat, a couple of dances.

Q Nothing else to drink? A No.

Q Did you ever see Boudreau drink? A No.

Q And you never drank anything but coffee? A Down there I never drank nothing but coffee.

Q And after Boudreau was arrested, did you go to the police and tell the police what you had heard Boudreau say? A They didn't ask me.

Q Did you go to them and tell them? A No, because they didn't ask me.

Q Why didn't you go and tell them, irrespective of whether they asked you or not? A They didn't ask me nothing about it.

Q That is the only reason you did not tell them, eh? Is that right? A Yes.

Q You waited down there in police headquarters for about four hours, didn't you? A Yes.

Q To try and see Boudreau? A Yes.

Q And during all that time you did not tell anybody about what he had said? A I wasn't talking to anybody.

Q Well, you didn't tell it to anybody?

Mr. McGeehan: I object. She said it about six times now.

Q And you heard him say something about Condit being pushed off the running board? A Yes.

Mr. McGeehan: I object to that. That is not her testimony.

The Court: This is cross examination.

Mr. McGeehan: May I at least get my statement—

The Court: No.

Mr. McGeehan: That is not proper.

The Court: It is decidedly proper. She was not quoted. She was asked if she heard



him say something about Condit being pushed off the running board.

Counsel for Chris Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q And about the car being painted right after the murder? A Yes.

Q You heard him say something about that? Yes.

Q What did you hear him say about that? A He said after they did the Reid job they took the car and had it painted.

Q Did he say who took it to have it painted? A No.

Q He didn't say he took it to have it painted? A No.

Q And then what did they say about Condit being pushed off the running board? A He said he pushed Condit off the running board because he recognized him.

Q He said he pushed him off? A Yes.

Q You are sure about that? A Yes.

Q You cannot be mistaken about that? A No.

Q Now, didn't he say that Condit was pushed off the running board? A He said that he pushed him off the running board.

Q You are sure about that? A Yes.

Q Who was present at that conversation? A There was Carlo Bielke, Lillie Brooks and myself.

Q And was Buck Josephs there? A No.

Q Did you talk to Buck Josephs about that? A No.

Q Did you tell that to Buck Josephs at any time? A No.

Q Did Buck Josephs tell you that? A No.

Q He talked to you about the case, though, didn't he? A No, he didn't talk to me about the case.

Q Uh? A He did not talk to me about the case.

Q What did he talk to you about?

Mr. McGeehan: When? Will you fix the time?

Q Any time.

Mr. McGeehan: I object to that. Too general.

The Court: Too general.

A He asked me—

Mr. McGeehan: Wait a minute.

The Court: She evidently understands.

Mr. McGeehan: The time and place should be fixed.

Q What did he talk to you here at the court house about? A He asked me how long I knew Boudreau.

Q Yes, what else did he ask you? A That's all he asked me, he didn't say nothing about nobody.

Q Why, he was talking to you for about ten minutes out in the hall, wasn't he? A No.

Q He was talking to you about this case, wasn't he? A No, sir.

Mr. McGeehan: When, may I ask the prosecutor?



Q During this past week and a half? A No, sir.

Q Did you make any record of this conversation that you had with Boudreau, make any memorandum of it in any way? A I just told Mr. McGeehan about it.

Q When? A I told Mr. McGeehan about it.

Q When did you tell him about it? A One night up to his office.

Q Who did you go up to his office with? A My brother.

Q How did you come to go up to his office? A He asked me to come up.

Q Who asked you? A Mr. McGeehan.

Q Do you know how it came that he asked you to go up? A I don't know how he came to ask me to come up.

Q But you never made any memorandum of this talk, did you? A No, sir.

Q You never made any note of it? A No, sir.

Q When was the first time that you made any note about this talk? A I didn't tell nobody only Mr. McGeehan about it.

Q What is that? A I did not tell nobody only Mr. McGeehan.

Q When was that? A One night up at his office.

Q When was it? A A week ago yesterday.

Q You are sure about that? A Yes, sir.

Q So that from the middle of October until a week ago yesterday you never mentioned a word about that talk, did you? A No, sir.

Q Not to anyone? A No, sir.

Q And did any one ever mention it to you? A About what?

Q About that talk? A No.

Q Nobody ever mentioned it to you? A No, sir.

Q You never mentioned a word about that talk, did you? A No, sir.

Q Not to any one? A No, sir.

Q During all that time? A No, sir.

Q But a week ago yesterday you went to Mr. McGeehan's office and you told him about it? A Yes, he asked me.

Q You told him about it? A Yes, sir.

Q In spite of the fact that you never told anybody else about it? A No.

Q Well, was there anything to bring it to your attention? A No, sir.

Q No reason why you should remember it particularly? A No, sir.

*Re-direct examination* by Mr. McGeehan.

Q You were given a subpoena at your home, too, were you not? A Yes.

Q The evening before last? A Yes, sir.

Q And did Mr. Corrigan, who sits to my left, give you that subpoena? A Yes, sir.

Q And was Joseph Barone, known as Buck Josephs, with him at the time? A Yes, he was.

Q Did you ever see or were you ever in the company of Buck Josephs from the time Mr. Corrigan came with him to your house to subpoena you? A No, sir.

Q And since that time you have been to my office, have you? A Yes.

Q And you were there, as a matter of fact, twice, weren't you? A Yes, sir.

Q And I asked you questions about it, didn't I? A Yes, sir.

Q Now, your name was in the newspaper, wasn't it, after you were at police headquarters?



A I have not seen the newspapers, I just seen it there last week.

Q You did not see it in the newspaper yourself? A I saw it last week in the newspaper.

Q You saw it last week, too, in the newspaper?

Mr. Fisch: Now, if the Court please, I object.

The Court: Just a minute, Mr. McGeehan, it is not an objection to the question, but you put in the word "too."

Mr. McGeehan: What word?

The Court: You used the word "too."

Mr. McGeehan: I don't know where I used the word "too" but if I did I will ask that the whole thing be eliminated.

Q Did you see your name in the newspaper? A I seen it last week in the newspaper.

Q You don't know whether it was in the newspapers right after you first went to police headquarters or not? A I don't know, I never seen it in the papers.

Q Now, then, since then you have been at court? A Yes, sir.

Q And your brother came to my office with you? A Yes, sir.

Q And he lives at home with you and your parents? A Yes, sir.

Q Where did you say you lived? A 132 Greylock avenue, Belleville.

Q Where do you work, now? A I work in the Westinghouse.

Q How long have you worked in the Westinghouse? A Two years.

Q And you are losing this week and last week from work? A Yes, sir.

Q And you have spoken to me a couple of times complaining of that, haven't you? A Yes.

Q And you have seen Josephs, this young man (indicating Joseph Barone) since you have been waiting here, is that right? A Yes, sir.

Q And that is the young man who is standing up (indicating Joseph Barone)? A Yes, sir.

Q And you have spoken to me in the presence of the young man here, Mr. Corrigan, asking when you should come back or if you could go? A I asked him if I could go to work a couple of times.

Q Now, have you had any conversation outside of that in the presence of this man Josephs? A No, sir.

Q When the police told you that Boudreau was married did they tell you of his marriage to Myrtle Foster? A Yes.

Q Did they tell you anything about his being married four or five years ago to some other woman in Massachusetts? A No, sir.

*Re-cross examination* by Mr. Fisch.

Q You also spoke to Josephs around the court house here when Mr. Corrigan was not present, didn't you? A I asked him when I was to be called on the trial so I could go to work.

Q But you spoke to Josephs when Mr. Corrigan was not present? A No, I did not.

Q Mr. Corrigan was present every time when you spoke to Buck Josephs in the court room?

Mr. McGeehan: What do you mean by being present?



The Court: Right with him, let's be specific.

Witness: He was always with Buck Josephs when I spoke to him.

Q That is, Mr. Corrigan was always with Buck Josephs when you spoke to him, Mr. Corrigan? A Yes.

Q But you spoke to Buck Josephs in the court house here on many occasions when Mr. Corrigan was not with him? A I spoke to him twice about Boudreau.

Q And you had been living with Boudreau, had you not? A I had not.

Q What? A I had not.

Q Hadn't you been living with Boudreau at 41 Eighth avenue? A No.

Q Eh? A No, sir.

Q In November, 1925? A No, sir.

Q For a week? A No. I was never away from home a week.

Q Well, you went out with him? A I went out with him, yes, but I never lived with him.

Q You had intercourse with him? A No.

Q You never did? A No.

The Court: How old are you?

Witness: Twenty-two.

*Re-direct examination* by Mr. McGeehan.

Q Do you know whether this man lived with a girl named Lillie at 41 Eighth avenue for a week? A He lived with a girl on Orange street two weeks.

Q What was her name? A Lillian Brooks.

Q Have you the letters in your pocket written by this man asking you to become his wife? A Yes.

Mr. McGeehan: The prosecutor may see them.

Mr. Fisch: I did not ask for them.

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VERNON B. SHELTER, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A 98 Dayton street, Newark.

Q How long have you lived in Newark? A Approximately eight years.

Q And what business are you in? A I am salesman with the Packard Motor Car Company.

Q That is the Packard Motor Car Company of Newark? A Of New York, Newark branch.

Q And what salesroom or branch are you connected with? A At 198 Central avenue.

Q That is the Newark Packard Company? A Yes.

Q And how long have you been connected with the Packard company? A I went with the Packard company in June, 1912.

Q So you have been employed by them for around fourteen years, is that right? A Yes.

Q Now, did you on or in or about the month of July, handle a transaction for the sale of a Packard automobile being sold to J. Roma? A Yes.

Q And the man who bought that car, or with whom you had the transaction as J. Roma, do you see him here? A Yes.



Q Will you point him out, please? A The gentleman with the gray suit, looking at me right here.

Q Indicating the defendant Capozzi? A That is correct.

Mr. Bigelow: Yes.

Q Now, have you with you the records of the Packard company covering that particular transaction? A No.

Q Where are those records now? A I believe that they have been requisitioned by the State.

Q The police have those records in their possession? A To the best of my knowledge.

Q And how long have they had these records in their possession? A Well, I should judge about ten days or two weeks.

Q And did you examine the records at the time you gave them to the police? A Not fully, no.

Q But you are familiar with the records of this transaction? A From the standpoint of a salesman, yes.

Q I mean from the standpoint of a salesman? A Yes.

Q Did you handle the sale of the car in this transaction? A I did.

Q To whom? A Well, I at the time thought I was selling it to Max Silverman, and I thought he had the biggest interest in the car.

Q You thought he had an interest in the car? A Yes.

Q But in whose name was the car being sold? A The car was being sold in the name of John Roma.

Q And how long did you have an order for that car approximately? A There were two orders.

Q Well, just roughly. A Well, I should judge about three weeks. There was another order previous to that which was not accepted by the company because we did not have the type of car that was wanted. It was more or less a blanket contract.

Q But this car was ordered about three weeks or so before? A Yes.

Q And what kind of a car was it? A It was what we term a 2-3-6 Phaeton with some equipment and changes.

Q That is an open car? A Yes.

Q And when was that car to be delivered A The car was ordered for delivery as soon as possible. According to our records, it was delivered on July 19th.

Q It was actually delivered on July 19th? A Yes.

Q Now, Mr. Shelter, do you remember the circumstances surrounding the delivery of that car on the 19th of July and the preceding two or three days in connection with that transaction, that is, who you met and what papers were signed, the time of delivery and so forth? A I think that on the day of delivery, that I can recall very closely the important things that happened pertaining to the delivery.

Q All right, go on. A I might not remember all, some of the previous days but I may, and some of them I cannot.

Q Now, with reference to this Packard car when was that almost ready for delivery and then not delivered? A I cannot make a positive statement, but I believe that it was accepted by



Roma and Silverman on Thursday, I believe that is the 15th, but I am not sure.

Q But some day during the previous week Roma and Silverman accepted it, is that correct? A That's correct, yes.

Q What do you mean by that, what do you mean by an acceptance? A The car was brought here on approval. It had special paint and it had tonneau windshields and double tire carrier and several other minor accessories which they wanted, something that was a little special and a little different. I did not know whether or not it would be accepted by them until we showed it to them.

Q But the car was accepted on one of the days during the week preceding the 19th of July, is that right? A Yes, sir.

Q By acceptance what do you mean—not why you had to have it accepted, you told us that, what do you mean by acceptance, the approval of the job? A Yes, the approval of the look of the car.

Q Did they look at it? A Yes, sir.

Q Where? A Right at 198 Central avenue.

Q That is your Packard agency or salesroom? A Yes, sir.

Q When was that ready for delivery? A We were going to try to have it ready for delivery Friday but we could not on account of other deliveries that we had to make and get ready and it was held until Monday.

Q And did certain papers have to be signed? A The conditional sales papers had to be signed, the chattel mortgage and so on, and the notes.

Q By the way, how was that car to be paid for, what were the terms of sale of that car to Roma? A As I recall we allowed $1,050 on a used Packard that Roma had turned in.

Q How much? A $1,050 I believe is the correct amount, I am not positive of that amount, but that is approximately it.

Q He was turning in a used Packard? A That's right.

Q How much was the cost of this new Packard that he was buying? A Approximately $4,500.

Q So there was a difference of around $3,500 on that car, that the car was to cost outside of the valuation of the car turned in for it? A There was also $350 in cash. The terms were $1,500 in cash, $1,050 for the used car, represented cash to us and $350 leaving approximately $3,000 to be paid in notes.

Q And those notes were to be secured by a conditional bill of sale of the car? A Yes, sir.

Q Now, were certain papers to be signed in order to accomplish delivery of that car? A Yes, sir.

Q And did those papers have to be signed before you delivered the car? A Yes, sir.

Q Now, what arrangements did you make to have those papers signed by Roma? A The papers were received by our sales office either Thursday or Friday, I believe Thursday afternoon.

Q Where did you get them from? A From a Finance Company, I do not know the name of the company, the papers will show that.

Q One of the Finance Companies that finance your sales, is that right? A No, sir, this was not the finance company we do business with, in fact, our own finance company had turned down the credit of Mr. Roma.

Q So, the papers arrived in your office? A Yes, sir.



Q And are they in one set or in duplicate? A There is approximately four copies.

Q Did you arrange to have them or one of the copies signed? A When I received the papers I tried to reach Mr. Roma at the St. Francis Hotel.

Q Did you know he was living there at the St. Francis at the time? A Yes, sir.

Q Did you succeed in reaching him at the St. Francis Hotel? A No, sir.

Q Do you remember how you attempted to do so, by phone or personal call? A I just called by phone and I made a personal call there Friday morning and as I recall it was during the day also.

Q Did you see him then on that Friday? A No, I seen Mr. Roma on Thursday, I don't think I seen him—in fact I know I didn't see him on Friday.

Q Did you want to get these papers signed? A Yes, sir.

Q What did you do to have it done, just tell the jury exactly how you went about to have those papers signed that had to be signed before the delivery of the car and what paper was signed and when the car was delivered? A I received the papers on Thursday afternoon or evening as I recall it. Friday, Friday morning I tried to reach Mr. Roma at the St. Francis. I went there and called personally and was told he was not there and I waited for a short while and left the hotel and called up once or twice during the day, and on Saturday there was an automobile race at Atlantic City and I found out Friday night it was impossible to deliver this car to Roma on Saturday, and I went to Atlantic City to the automobile races, Saturday morning

and returned Saturday night, in fact it was two o'clock Sunday morning when I reached my home. On Sunday I had intended to try to reach Roma again to have the papers signed so there would not be any delay Monday in delivering the car. I had an appointment which I had to make up in Bernardsville Monday morning and my time was limited for that reason. Before I had a chance to reach Roma, Silverman and, I believe, Barone, Chris Barone I think it was, Chris and two other fellows in a cream colored car, as I recall it, came over to my house and Silverman told me that he had papers made by our office so he could get them signed and did not know whether or not I would be back on Sunday and he had those he told me at that time and he told me to call at his house Monday morning on my way to the office and he would have the papers signed. I called Silverman's home and the papers were not signed.

Q State when you called, what time you left your house, and what time you believe you got to Mr. Silverman's that morning. Just give that in detail. A I left my house shortly after 8:30; sometime between 8:30 and a quarter to nine.

Q How do you know that? A Well, I had been taking my little boy to summer school. I drove him down to school, and I did that this particular morning. I realized I was late. I had to go to Bernardsville and I had these papers to attend to, and sometimes they do not go as smooth as they might, and I got over there at a quarter to nine. I remember the time, because of the next appointment in Bernardsville. I called at Mr. Silverman's house, and the papers were not ready. I stood at the door about five minutes, and was about to leave when he came down



in his bathrobe, and he asked me to wait for him and we would go down to get the papers.

Q Who was to sign the papers you were to get? A John Roma.

Q And this was on Monday morning? And they had not yet been signed? A I did not see the papers, but I was advised that they were not signed.

Q And Silverman asked you to go with him to the St. Francis to have Roma sign them? A That is right.

Q Did you go there? A I went there. I drove Silverman there. He asked me to come in with him, which I did not do. I said, "Max, I am in a hurry, you run in and get them signed, and I will turn the car around."

Q Which way were you facing? A We went around by the Public Service building and went down.

Q So you were facing east on Park street when he got off? A That is right.

Q You mean you got your car so that it would face east? A I turned my car so that it would face west.

Q Toward the Packard Company? A Yes, toward Hahne & Co.

Q And how long was he in the St. Francis Hotel? A I should judge five or ten minutes. He was right out almost at the time I got back. I shut off my motor.

Q Were the papers then signed? A The papers were signed when he came out.

Q Then were did you go? A I drove him direct to the Packard Company.

Q Now, what time do you judge from the length of time it took you to go from your house —where is your house? A I live at 98 Dayton street.

Q What section of the city is that in? A That faces Weequahic Park on the Frelinghuysen avenue side, within one block of the entrance.

Q So it took you how long to run from down there to the St. Francis Hotel? A Well, it took me about five minutes to go to Silverman's, and I waited three or four minutes before the door was answered, and I waited for Max to have a cup of coffee when he come down, and I imagine twenty minutes had passed then.

Q When he come down was he dressed? A When he came down first he wasn't. I went upstairs with him while he dressed.

Q How long were you with him? A Well, I guess from the time I left my house to the time I left his house was five minutes.

Q What time did you get to the St. Francis Hotel to have Roma sign those papers? A It must have been a quarter to nine, to 9:30.

Q Then you went to the Packard Company with him? A Yes, I went right direct to the Packard Company.

Q And what car were you driving? A I was driving a Packard sedan owned by the Packard Motor Car Company.

Q For use of— A Demonstration and company business.

Q Now, by the way, was—you said the cash to be paid in addition to the old car to be turned in was around $350? A That is right.

Q And was that the exact amount? A I could not say it was the exact amount, but it would be within a dollar one way or the other, a couple of dollars.

Q Now, when the car was finally delivered, did Capozzi pay that $359 or $350 some odd dollars? A I paid that by check. I made that



check out on Thursday or Friday after the car was accepted. That I loaned to Mr. Silverman.

Q You loaned that to Silverman? A That is right.

Q That is, you advanced out of your pocket the cash that figured in the transaction? A I did, yes.

Q And were you repaid that subsequently? A Yes, I was repaid back.

Q What is your wife's name, Mr. Shelter? A Jeanette.

Q I show you what purports to be a receipt signed by Jeanette Shelter, dated August 4, 1926. Do you recognize that as your wife's handwriting? A Yes.

Q The "J" is torn off there, isn't it? A That is right.

Q And that is pasted upon a blotter, isn't it? A Yes.

Q Was this receipt given by your wife for you to Mr. Roma?

Mr. Bigelow: I object, unless the gentleman saw it given.

Mr. McGeehan: I don't know whether he did or not.

Q Was this receipt given by your wife for you to Mr. Roma for $359, the return of the money that had been advanced by you? A Yes.

Q Well, now, were you there when it was paid? A I was in Detroit; Detroit, Michigan.

Q And you were not present when the money was paid or your wife made out the receipt? A No.

Q Did you receive the money when you came home? A I left Detroit—this money was paid

at my house on the evening of the 4th, and I left Detroit on that same night. I arrived home the next morning. Before I got home, the money was deposited at the Federal Trust Company.

Q Had you told Mr. Silverman before that that the money was to be paid at your house? A Well, he said that the money probably would be paid before I got home at my house, yes.

Mr. McGeehan: Now, I offer that receipt in evidence.

Mr. Bigelow: We have no objection to it going in as evidence that Mrs. Shelter received $359. It of course—we do not admit that it is in evidence, as to whom she received it from or anything of that sort.

The Court: He said he was in Detroit.

Mr. McGeehan: Yes. I offered that. He had ratified that as an agent from whom he received the money. I offer it. If the prosecutor objects to it, I will put it back on the table.

Mr. Bigelow: I object to it on the ground that it is not connected up with this case.

Q Now, where did you go then, Mr. Shelter, after you left the St. Francis Hotel that morning? A I drove direct to 198 Central avenue.

Q That is the Packard agency? A That is right.

Q And when you got there, where did you go, inside the place, what part of it? A Where we went first, I could not say exactly, whether we looked over the car or went direct to Miss Walz's office.

Q Whose office? A Miss Walz's.



Q Who is Miss Walz? A She has charge of wholesale. This was handled as a wholesale deal.

Q Is that Miss Walz standing over there? A Yes, sir.

Q Now, you then went into the presence of Miss Walz? A Yes, sir.

Q About what time was it that you got up there from the St. Francis Hotel? A I should judge around 9:30 somewhere around that, I don't know exactly.

Q Now, what was done with the papers that had to be signed? A Before the car could be delivered they had to be accepted by Miss Walz, and they were given to her and accepted and the car was delivered a little later.

Q Now, did you put your signature on as a witness on the papers there? A I did, but I did not see them sign it, I signed them on the say-so of Mr. Silverman that they had been signed by Roma.

Q But you put your signature on there as a witness? A I did.

Q Now, had some of the papers on that car been dated the 17th or for Saturday when you said it was scheduled to be delivered? A The man who has charge of the delivery department went on his vacation; the first day of his vacation, as I recall, was on Monday.

Q That was Monday the 19th? A Yes, sir.

Q Who took his place when he went away? A Mr. Brady.

Q Is Mr. Brady here, is that Mr. Brady (indicating Mr. Brady)? A That is Mr. Brady.

Q Then Mr. Brady took the place of the regular—what position did the man have that went on his vacation then? A He is in charge of the delivery department.

Q And he was leaving on his vacation on Saturday, is that right? A Yes, sir.

Q And that was the 17th of July, was it? A Yes, sir.

Q And were the papers made out for the 17th before he left? A The paper that was dated the 17th which is the delivery sheet has nothing to do with the conditional sales, but it is a delivery sheet only and was made out on the 17th.

Q Were all the other papers made out on the 19th? A The conditional sales papers were made out as of the 19th, they are not dated until signed by the man making delivery of the car.

Q And that was Roma? A Yes, sir.

Q That was on the 19th? A Well, as I said before, I did not see Mr. Roma sign on that day, I took Mr. Silverman's word that they were signed by him at the same time I got them.

Q And you were waiting for them on Saturday and on Sunday, weren't you, to have them signed? A I was at Atlantic City and I intended to have them signed Sunday when he volunteered to have them signed himself.

Q On Sunday? A Yes, sir.

Q He said he would have them signed on Sunday? A Yes, sir.

Q And you were to call at his house on Monday to get them, get the papers and go with him and the papers to get the car? A Not necessarily go with him to get the car.

Q To get the papers? A Yes, to get the papers.

Q Now, when you went there on Monday morning and asked him for those papers he told you they were not signed, didn't he? A Yes, sir.



Q And that is why he asked you to go to the Hotel St. Francis to get Roma to sign those papers, is that right? A He asked me to drive him to the St. Francis and he would have them signed.

Q Now, is there any doubt in your mind that the car was delivered and those papers brought by you to the Packard agency on the 19th of July? A No, sir.

Q No doubt whatever? A I have had a lot of dealings with Silverman and from my dealings—

Mr. Bigelow: I object.

Q Is there any doubt at all in your mind as to that date? A No, sir.

Q Now, was the car delivered on that date to Silverman? A Yes, sir.

Q Was it delivered immediately upon your arrival at the Packard place? A No, sir.

Q When you got up to the Packard place and completed the papers before Miss Walz, who had to check out the delivery of the car, this first young man there he has the job of giving the car physically to the purchaser of a new car? A Yes.

Q Who is that? A Parsons is the man, and inasmuch as he was on his vacation Brady made the delivery.

Q And your records show the time of delivery, the date of delivery? A Yes, sir.

Q Now, was the car ready when you got up there so that Silverman could take it? A No, sir.

Q What remained to be done upon it? A The car had to be washed and polished, it had been checked in, it had been all tested and was

ready with the exception of the cleaning up and polishing and washing and so on.

Q And did you remain there while that was being done? A No, sir.

Q Do you know whether there was a rush on the wash rack or not that morning? A The man that we have takes approximately four hours to wash a car and the car was put on the wash rack quite early in the morning and I was advised that it could not be finished before two o'clock, approximately two o'clock.

Q Who advised you, the man in your place there? A Yes, sir.

Q Did you remain until that car was delivered? A No, sir.

Q Did you come back or not before it was delivered? A No, sir, I came back after it was delivered.

Q Did you go with Silverman or with any other person into the room where the car was while you were there, do you remember? A I believe I did, yes, sir.

Q What time did you leave the place that morning? A I don't know exactly, I should judge between 10, around 10:30.

Q Was Silverman still there? A I don't know.

Q Do you remember his leaving at all, or whether he waited for the car? A Well, I was quite busy on other details and I had a very important engagement which I was very late on.

Q In Bernardsville? A Yes, sir.

Q What time was your engagement? A I told him I would be there as early in the morning as possible and I usually got out there around nine or half-past nine on other appointments.

Q Now, how do you fix in your mind the date of July 19th, what records have you got of those



things that determine positively in your mind? A I have checked up the conditional sales papers and also the record of the company, whether the car left the building upon delivery to Silverman that day.

Q Do you know what date or would you remember the date of the automobile races that you went to Atlantic City—was that the new track down there? A Yes, sir.

Q Do you remember what day of the week if not the day of the month that you saw those races down there? A It was on a Saturday.

Q Does that stand out in your memory, the day of the week? A Yes, sir.

Q Now, in connection with that, does Sunday, the following day, stand out in your memory? A Yes, Sunday I did not get up as early as usual on account of going to bed so late. I got home approximately at two o'clock. I stopped at my mother's in Asbury Park and had not been up very long and Silverman called at the house and told me to come over to his house on Monday morning, tomorrow morning he termed it, when he would have the papers for me.

*Cross examination* by Mr. Bigelow.

Q I wish you would glance through these papers and tell me whether they include the papers that Mr. Silverman gave to you in front of the St. Francis? A I didn't say that he gave them to me in front of the St. Francis.

Q I misunderstood you. Where did he give them to you? A I do not recall whether they were given to me or Miss Walz. The first I see them was in Miss Walz's office up to the Packard Company.

Q You do not just remember who you got them from? A I could not make a positive statement whether Mr. Silverman gave them to me or Miss Walz. If they were given to Miss Walz, they were given to her in my presence, but I could not make a positive statement as to that.

Q Do you recall whether Mr. Silverman was present when you saw them for the first time? A Yes.

Q Now, will you look over these papers? I seem to have quite a lot here, and put to one side those you saw for the first time that Monday morning in Miss Walz's presence and in Mr. Silverman's presence? A They are the three papers, and this is a duplicate which is not signed, and I do not know anything about.

Q These three papers which you have just handed me, a pink sheet, white sheet and a blue sheet, are the ones that you got that Monday morning? A Yes, possibly I better check up the amounts to make sure.

Q And I think you said something about witnessing them somewhere. You might look and see if your signature is on them? A Yes, it is here.

(Papers marked S. 21 a, b and c for identification.)

Q Now, as I understand you, you had papers like these prepared in your office, but Mr. Silverman told you that he had had duplicates prepared over Sunday?

Mr. McGeehan: I object to that. That is not the testimony.

Witness: While I was at Atlantic City on Saturday, Mr. Silverman called at our office and requested the duplicate papers.



Mr. McGeehan: I withdraw the objection.

Witness: I had the original papers at my home.

Q So then these particular papers that have been marked for identification, as I understand it, you never saw either signed or unsigned, until Monday morning, the 19th of July, when you saw them in Miss Walz's presence? A That is correct.

Q At the company's office? A That is right.

Q Now, does a purchaser of a Packard sign any receipt for the car or anything of that sort when he gets it out? A On a time payment deal of this sort it is not necessary. We usually have them sign a receipt, but not always.

Q Now, did Mr. Silverman sign a receipt for this car? A Yes, Silverman signed a receipt, I believe, for this car. He signed Roma's name.

Q Will you see if you find the receipt which Mr. Silverman signed for the car among those papers? A Yes, I have it right here.

Q This top sheet is the receipt? A Yes.

(Paper marked S. 22 for identification.)

Q Where was the car delivered from that month, was it from the garage or from some place where you could see it as you sat at your desk? A I was on my way in from Bernardsville when the car was delivered. I was not present.

Q You did not see it delivered? A No.

Q Did you see this paper signed? A I cannot make a positive statement that I did, but I believe I did. I believe I was there when it was signed in the morning.

Mr. McGeehan: Indicating Exhibit what?

Mr. Fisch: S. 22 for identification.

Mr. McGeehan: That is the receipt for the car?

Mr. Bigelow: Yes.

Q Now, when did you last see this car at the Packard place of business? A On Monday morning, the 19th of July. The time, I should judge, ten o'clock, possibly immediately before I left; I don't know.

Q I suppose the following morning you noticed it missing? A Well, I tried to get back from Bernardsville to be there in time when the car was delivered. I thought I was in time. I got back a few minutes before two, but the car had gone out.

Q You took a car in in trade? A Yes.

Q You got that, I suppose, the week before or so? A Well, I think we got it more than a week before.

Q You got that, I suppose, the week before? A Well, I think we got it more than a week before.

Q Quite awhile before? A Yes, sir.

Q Had you done any business with Roma before? A No, I had not—you mean before this transaction?

Q Before this transaction? A No, sir.

Q I think you said he came into your office or you saw him on a Thursday? A Yes, sir.

Q Is that the only time you saw him in this transaction? A No, I seen him probably eight or ten times.

Q Over a period of how long? A I don't know exactly, but I would say a month.



Q And did he always come in with Max Silverman? A I could not say that he always came in with Max Silverman, but usually with Max.

Q So that you had the impression that Max was really the principal in this matter? A Yes, I did, and so did others in our organization.

Q And I suppose it was for that reason that you did not hesitate to let Mr. Silverman sign for the car when it went out? A Yes, even on the day of the delivery thought that Max was the major owner of the car, that, he had more of an interest than Roma.

Q Now, in any transaction about this car had Mr. Roma been at your home when you were not there? A I think he was at my home—I cannot make a positive statement to that effect.

Q Do you recall whether your wife saw him at that time? A I cannot make a positive statement that he was there, but I think he was.

Q That was before the 19th of July, I suppose? A Yes, sir.

Q And when did you again see Mr. Roma after the 19th? A When I—I cannot recall seeing him until today. I might have.

Q Have you seen him since then up until you saw him in court here? A I don't recall seeing him before today, I cannot state positively as to that. I might have seen him on the street. I have had no business transactions with him since that time.

Q You never knew him by any other name than Roma? A I know him by the name of Ruff, as a nickname which he was called by Max occasionally.

Q You heard Max use that term during the summer? A Yes, sir.

*Re-direct examination* by Mr. McGeehan.

Q The papers which were shown to you and which I cannot read because they were not offered in evidence, do they bear your signature? A Yes, sir.

Q And do they bear the signature of J. Roma? A They do.

Q And you remember that the signature on the delivery sheet was signed by Silverman for Roma at the place? A Well, I would not want to make a positive statement to that effect, but I do have a recollection of that, yes, sir.

Q You gave your permission to the delivery checker to turn over the car to Silverman on the signing of Roma's name to that delivery sheet? A I don't remember whether I did or whether it was done through the office.

Q Is it often customary for a car to be delivered to a representative or purchaser, a new car, or a car put in for repairs, to have them sign the principal's name, by the chauffeur or some other representative? A Yes, I think a chauffeur can sign for an owner.

Q And you had no hesitancy as the prosecutor asked you, in delivering this to Silverman for Roma on account of the fact that you believed he was the major owner? A Yes, I was under that impression until about ten days after and I found that Silverman had little or no interest in the car.

Q But the other papers, the ones you wanted signed at the hotel, they had to be signed by the name of the person to whom the car was going? A Yes, they had to have the bank signature.



*Re-cross examination* by Mr. Bigelow.

Q When Mr. Silverman got out of the car in front of the St. Francis, I think you testified that you turned your car around so that it was facing west on East Park street? A Yes, sir.

Q And was he in the building long? A I should judge about eight minutes, ten minutes not longer than ten minutes.

Q You turned the car around and brought it up in front of the St. Francis? A Yes, sir.

Q And I think you said you just shut off your motor? A You did not allow me to finish that statement. I just shut off my motor and a taxi pulled up and I realized then I was in the way and backed up, and it was only a few moments when Max came out.

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ROY I. BRADY, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Brady, where do you live? A 117 Grafton avenue.

Q Newark? A Yes, sir.

Q How long have you lived in Newark? A About seventeen years.

Q Were you connected with or are you now employed by the Packard Automobile Company? A Yes, sir.

Q At the Newark branch of that company? A Yes, sir.

Q How long have you worked there? A Well, there four years, not steady, but I was with the Flint Company about a year.

Q With what company? A The Flint.

Q With the exception of the year that you were with the Flint Company how long have you been with the Newark Packard Company? A A little over two and a half years.

Q Were you connected with them in July, 1926? A Yes, sir.

Q What was your job with them? A Delivery man.

Q And who was in charge of this department? A Mr. Parsons.

Q Is he still in charge of that department? A Yes, sir.

Q Did you take his place as substitute in charge of the department when he went on his vacation? A Yes, sir.

Q When did he go on his vacation? A He went on his vacation on July 17th.

Q What day was July 17th? A On a Saturday.

Q Were you in charge of delivery on July 19th? A Yes, sir.

Q What day of the week was that on? A Monday.

Q Have you checked up those dates? A Yes, sir.

Q Have you checked up those dates in connection with the sale of any particular car or delivery of any particular car with the records of your company? A On the 19th day of July, I delivered a car to John Roma.

Q Now, that car was what kind of a car? A A seven-passenger touring car.

Q Is that also known as a Phaeton? A Yes.

Q And that is an open car? A Yes.

Q And I suppose this was a fancy car? A Yes.

Q What color was it? A Gray.



Q And that car was new or used? A Brand new car.

Q Do you remember what time of the day that car was actually delivered—by delivered, I mean gone out of the place, taken out of the place? A Well, as near as I can figure, it was near two o'clock. It was after lunch. It was close to two.

Q Do you know how long anybody was there waiting for it, or how many times anyone had called for it that day? A I do not.

Q Do you know whether or not you noticed or saw Max Silverman there in the morning before the car was ready? A At the time I did not know Max Silverman.

Q Did you see anyone come in with Mr. Shelter? A No.

Q You did not? A No.

Q You do not remember seeing anyone? A Not on the 19th day of July.

Q What were you doing on the 19th day of July in the morning? A In the morning I was checking up on a five-passenger six.

Q That was some other car? A Yes.

Q Where did you work, in the office, or in the practical part of the building? A I worked in the delivery part.

Q That is the real department? A Yes.

Q And you were not in the office then? A No.

Q Now, you do not know whether or not Mr. Silverman or Mr. Shelter came in the office that morning, or what time they came in? A No. I was busy. I could not tell.

Q Now, how many men came up to the place to get the car? A You mean when it was delivered?

Q When it was actually delivered. Who came and got the car on that day? A Well, I told you

before, Mr. Silverman, which I thought was John Roma.

Q You thought Silverman was John Roma at that time? A Yes.

Q Who had O. K.'d the delivery of the car to him on the signature of John Roma? A I guess Mr. Harris, the sales manager.

Q And he is in the office? A Yes.

Q Now, you did not know Mr. Silverman? A No.

Q You did not know Roma? A No.

Q And you were told it was all right and they turned over the delivery receipt? A Well, I had to check the tools out. Then, if all the tools were in the car and the car was equipped, he would sign the receipt.

Q What time was that turned out? A Well, near two o'clock. I would not exactly know.

Q By near two, what hour are you sure it was after? A No, it was not after. It was between about, I would say, twenty minutes to two and two o'clock.

Q Between 1:40 and two o'clock? A Yes.

Q Now, do you remember anyone accompanied Mr. Silverman when he went up to get that car that day? A Well, before Mr. Silverman come up, which I thought was John Roma, five men came up, well, I would not say exactly five. There might have been four came up the stairway in the delivery department, and there were, I guess, four or five cars in the place altogether, but Mr. Roma's car was near the stairway.

Q Did they ask to see that? A No, they didn't ask nothing. They came up and jumped in the car, but it was near five. One jumped in it and he backed it down the floor a few times, and



he ran the motor, and he stopped it and he said, "That is my car." Of course, I didn't pay any attention to him, because I was doing some work on another car.

Q Then there were four or five men who came? A Yes.

Q Was Mr. Silverman among them? A No.

Q Was he in the office at that time? A I do not know where he was.

Q Then did he come at that time to the delivery department? A No. I should say he came fifteen minutes to a half hour after that.

Q You do not know whether he was in the office then? A No. I didn't pay any attention to it, because I thought the man who jumped in the car must have been the owner of it, or something.

Q Now, you didn't know the defendants in this case, or this defendant, Joseph Juliano, or Capozzi or Barone then, did you? A No.

Q So you do not know whether you saw them or any of them among the men who came for that car? A I do not think any of them men was there.

Q You do not think so? A No.

Q But you are not sure one way or the other? A No.

Q Now, who was Mr. Carl Parsons of the Packard Company? A He is doorman.

Q What does he do? A He checks in and out all the cars that come in.

Q In addition to your supervision of the delivery? A He checks them new cars that come from the factory and gets the motor number and he brings them in and he tests the cars for service.

Q Now, do you make a record when a car goes out? A Well, the only record we have is a checking sheet.

Q Who makes that up? A Well, Mr. Parsons makes that out, but Mr. Roma's was made out by Mr. Parsons, and that was made out on the 17th of July.

Q Is there any doubt in your mind as to whether Mr. Roma's car went out on the 17th or 19th? A It went out on the 19th.

Q Is there any question about it? A Well, the 17th of July fell on a Saturday. During July and August, we worked a half a day Saturday, and I understood the car was going out on Saturday near lunch time, or around lunch time, and I waited until one o'clock that Saturday, and at one o'clock I think Miss Walz came out and said the car would not be delivered on Saturday, that the finance did not come through. So I know that the car was not delivered on Saturday, it was delivered on Monday morning, and I took charge of it.

Q There is no doubt in your mind as to the date of the delivery of it? A No, sir.

Q You know that that is the 19th of July? A Yes, sir.

Q And is an additional check made on it by Mr. Schaller, do you know? A What do you mean?

Q Is there any record made up in addition to the finance papers and these other papers, is there any record made in your department on the day it goes out? A Only I check the sheets, and the check sheet is marked the 17th. Mr. Parsons wanted to get it all checked up on Saturday, but I would not have anything to do on Monday.



Q And do you know that he started his vacation on Monday? A Yes, sir.

Q And he is still working for your company? A Yes, sir, he has been working there ten years.

The Court: Where is the Packard office where the car was delivered from?

Witness: 198 Central avenue, corner of Hoyt street.

The Court: How many blocks from High would that be?

Witness: From High it is Summit street, and then there is another street, I think it is Golden street, and then High.

The Court: So it is four blocks.

Witness: No, three blocks from High street.

The Court: Three blocks above High street on Central avenue?

The Witness: Yes, sir.

*Cross examination* by Mr. Bigelow.

Q Mr. Brady, is this sheet that I show you made up by you or by that other gentleman whom you mentioned and whose name I can't recall? A No, sir, that sheet is made up by the door man.

Q And what is his name? A I cannot think of his last name, I know his first name is Carl, I never did know his last name.

Mr. McGeehan: Is Carl here?

(A voice answers in the affirmative.)

Mr. McGeehan: Is that the man (indicating a man in the audience)?

Witness: Yes, sir.

Mr. Bigelow: What is your name, sir?

Voice: Carl Schaller.

Mr. Bigelow: I ask that that paper be marked for identification.

(The same is marked S. 23 for identification.)

Q And this sheet which has been marked for identification, S. 22, is that the one on which you check the equipment and so forth? A Yes, sir.

Q How long before this car was delivered did four or five men come in, and one of them jump into the car and drive it back and forth? A About fifteen minutes to half an hour.

Q Do you recall whether there were four or five? A I cannot say positively. There may have been four, and there may have been five, I did not pay no attention to them, because I had other work to keep my mind on. I know there was around four.

Q And one of them said, "This is my car?" A Well, they ran the car back and forth, I should say two times, about six feet at most, and then back again, and as one got out he said, "This is my car."

Q What kind of a room is this where the car was? A Why, it is quite a large room, but I would never be able to tell you how many feet or how long it is.

Q Well, is it as big as this room that we are in now? A Yes, sir.

Q And how close were you to the car when that remark was made? A Well, I should judge the car was about to where I am here, and I



was over by that door on another job (indicating.)

Q You were checking up the equipment on another car? A Yes, I was checking another car.

Q And was there anybody there with you, were you checking it by yourself? A No, there was a man, Mr. Manzel, he is the washer.

Q And you were checking up the other car and you just overheard this remark? A Yes, sir, that's all.

*Re-direct examination* by Mr. McGeehan.

Q Whoever said that, do you know whether he went into that new car and said, "Oh, this is my car?" in that spirit? A No, the way he said it I knew it was not his car.

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CARL SCHALLER, sworn in behalf of the defense.

*Direct examination* by Mr. McGeehan.

Q Mr. Schaller, you are employed by the Packard company? A Yes, sir.

Q At their Newark branch? A Yes, sir.

Q How long have you worked there? A Well, I have worked there about seven years.

Q How long have you lived in Newark? A Sixteen years.

Q Married? A No, sir.

Q What position did you have with the Packard company in July of 1926? A I was door man at that time.

Q And do you remember the Packard car that has been spoken of in the previous witness' testimony? A Yes, sir.

Q What did you have to do with the delivery of, or checking up of, or whatever else the work might be on this car? A I turn the cars over to the owners. There is no car supposed to go out of there unless I O. K. and check it. That is, the motor number, I check the motor number, the license number at the time it goes out and the time it comes in.

Q Is that on new cars or on old cars? A On every car that comes in.

Q Even the repair jobs? A Even the repair jobs and everything.

Q Do you make a record of the date of delivery of such cars? A Only when it comes down and is ready to go, then I make a record of it.

Q When it comes down and is ready to go? A I check it then.

Q Then, when you finish checking it, you make a record, is that right? A Yes, sir.

Q Now, if the car is ready to go and checked, you then make your record out and check it as it is getting ready to leave the place? A Yes.

Q Do you know when you did that on this car, was it on Saturday the 17th or on a Monday? A I don't remember whether it was Saturday or Monday but if I had my record, I could tell.

Mr. McGeehan: Would you mind letting the witness look at his record, Mr. Prosecutor?

Mr. Bigelow: Oh, you may have it.



Q This is the record which you make on cars. So if you can locate the car in question on that (referring to Exhibit S. 23 for identification). A There it is, a new car, 216902; 1:45 P. M. an eight-cylinder car.

Q Now, that record was made out under what date? A July 19th.

Mr. McGeehan: Do you object to my offering that in evidence?

Mr. Bigelow: Not at all.

Mr. McGeehan: I offer it in evidence.

The Court: What did the witness say about eighteen?

Mr. McGeehan: He said an eight-cylinder car.

(S. 22 for identification is marked Exhibit D. 4 in evidence.)

Q And this record that has been introduced in evidence is called a record of cars, is that right? A Yes.

Q And is it under date of Monday, July 19, 1926, is that right? A Yes.

Q And it includes a large number of automobiles? A Yes.

Q Some of the cars on here are repair jobs, and some of them are new cars, aren't they? A Yes.

Q Now, is there anything under the listing of the car under the name Silverman which shows whether it is a repair job or a new car job? A Yes.

Q What? A It is marked new car.

Q Under the heading of owner? A Right to the left of it.

Q Well, I mean under the column the name of owner? A Yes, sir.

Q Now, you have on there the name of driver, Silverman, is that right? A Yes.

Q Well, did you know Silverman to see him? A Yes, very well.

Q So you knew he drove the car out? A Yes.

Q Now, you have a heading here motor? A Yes.

Q And a lot of numbers underneath with number 216902 opposite that car. That is that car? A Yes, the motor number of each car that goes out.

Q Do you know whether that is the motor number, 216902, of the car sold J. Roma? A Yes.

Q Did you look that up for the police and on questiions of our office? A No.

Q You never checked up that motor number? A No.

Q Well, how did you know? A I checked the car when it came in.

Q You know the car Silverman took out was a brand new car? A Yes.

Q And you knew it was the car sold to Roma? A I didn't know it was for Roma, I thought it was for Silverman. He come in there for repair work and I knew when he got his fixed.

Q So you knew Silverman drove a brand new Packard car out? A Silverman and Brady drove a Packard car out.

Q Who is Brady? A The little fellow.

Q And there was no other new car taken out by Silverman at that time? A No.



Q And that is marked 1:45 P. M. Would that indicate the time that car was taken out? A Yes.

Q That was an eight cylinder Packard? A Eight cylinder Packard, painted gray.

Q A touring car? A Touring car with tonneau, windshield with wings for the back part of the front seat.

Cross examination waived.

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ANNA H. WALZ, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A 115 Hollywood avenue, East Orange.

Q And are you connected with the Newark Packard automobile company? A I am.

Q How long have you been connected with it? A Since May, 7, 1917.

Q Since 1917? A Yes.

Q And on and in the month of July, around then, 1926, you were connected with it? A I was.

Q In what capacity? A In the wholesale department.

Q Do you remember handling a transaction of the sale of a car to J. Roma? A I do, for a Seabright dealer.

Q And that was a wholesale, classified sale, was it not, and usually came within your department? A Yes.

Q Did you say your position—what did you say your position was in that wholesale depart-

ment? A I take charge of the eleven dealers that are under the Newark branch.

Q And what work did you do in connection with the transaction, what would be your function? A Make records of it, secure cars for the dealers.

Q Now, did you do such work in connection with the Packard Phaeton sold to J. Roma? A I did.

Q Have you examined the records in connection with it? A Yes.

Q Have you gone over your records and talked with detectives from the police department? A I have.

Q And was that at the time you delivered it, and showed them what time you delivered it with the records of the car? A I did.

Q And then later on were you questioned with regard to it by Mr. Corrigan of my office? A Not at your office.

Q No, of my office. Your records were all gone over then? A Not all.

Q I mean those which have been taken by the police, and you were familiar with the transaction? A Yes.

Q And you told him the same thing you told the police investigator, did you not? A Yes.

Q Now, will you tell us when the car was delivered that was sold to Roma? A It was delivered on July 19, 1926, before two o'clock.

Q Why do you use the time, before two o'clock? A Because it had not been delivered when I went to lunch, and I go to lunch from one to two.

Q And it had been when you come back? A Yes.



Q Now, before the delivery of that car and on the morning of July 19th, what transaction was had in connection with that automobile? A What do you mean?

Q Well, I mean before the car went out of the place while you were at lunch, what was done in the office by anyone regarding the sale of the machine or the signing of any papers?

Mr. Bigelow: You may lead her.

Mr. McGeehan: All right.

Q Did Mr. Silverman come there with Mr. Shelter, the agent selling the car? A I do not recall.

Q What? A I do not recall.

Q Do you recall Mr. Shelter being there? A I do not. He probably was.

Q I beg your pardon? A I said I do not recall having seen Mr. Shelter.

Q You do not remember either of them? A No.

Q Well, do you remember one way or the other whether they were in the office? A They may have been.

Q Do you know where you got the paper from that you had to check over? A I do not know.

Q But you have checked over the papers? A I know I secured the papers, but who gave them to me, I do not know.

Q Well, did you have a good many transactions, is that the reason? A Well, I have a lot of detail work.

Q And in this transaction, do you know who handed the papers to you? A I do not recall.

Q Do you remember that you had the papers? A Yes, I know I had them.

Q How do you know that? A Because I sent them by registered mail to our Seabright dealer that night, and I had to get the papers before the car was delivered.

Q Did you have to get these papers before the car was released? A It would not be released unless I said so.

Q And you would not say so until you got certain papers, is that right? A Yes.

Q Now, what kind of papers are they? A Conditional sales papers, practically a chattel mortgage and we also had to have a binder covering insurance.

Q Now, did you receive such papers on the morning of the day of delivery of the car? A I received the conditional sales paper, but I do not know by what means.

Q You have no recollection that they come by any unusual means? A No.

Q And who do you usually get them from? Well, how did you usually get those papers? A Generally I get them through the mails from the dealers, but this time the salesman happened to be in Newark.

Q I see, you were the wholesale representative on wholesale cars on out-of-town transactions? A Yes.

Q Do you usually have anything to do with a car when it is sold to a Newark man through the Newark office? A No.

Q This was an original Seabright order, is that right? A Yes.

Q That is why you had something to do with it? A Yes, sir.

Q These papers that you received, do you know whether you were due to have gotten them on Saturday? A Not necessarily.



Q Do you remember anything about Saturday preceding the day the car was delivered? A Yes, sir.

Q What happened in regard to it that day? A Why, Mr. Max Silverman wanted to take delivery of the car but he could not, because the papers were not signed, because Mr. Shelter had them.

Q Mr. Shelter had the papers and they were not signed, and Max Silverman was trying to get the car on Saturday, that's right, isn't it? A Yes, sir.

Q That was the Saturday before the Monday when they were delivered? A That's right.

Q Now, did you give him a duplicate set of those papers? A I did.

Q Did you tell him to have those papers signed before he could get the car? A That as well as a binder covering insurance.

Q And you gave them to him? A Yes, sir, that's right.

Q Did those papers that you gave to him, were they in your presence before that car could go out and did he get them on Monday morning? A Either one or the other set I received Monday morning, I don't know which set it was.

Q But you had to get them to let it go out? A That's right.

Q Of course, you did not see the car actually go out? A No, sir.

Q You know it was on Monday morning, don't you? A Yes, sir.

Q You know it was on Monday the 19th the car left the place, after the papers that morning had been given to you? A I do.

*Anna H. Walz, cross.*

Q Now, do you know what time in the morning you got those papers from whoever handed them to you? A I don't recall.

Q Is there anything on the papers or any of your records to show what time that morning you received those papers? A No, there is not.

*Cross examination* by Mr. Bigelow.

Q Miss Walz, do I understand you correctly to say that you sent these papers immediately by registered mail to the Seabright dealer? A After I secured the binder covering the insurance.

Q And why did you send them to the Seabright dealer? A Because it was his transaction, we were merely handling it for him.

Q Did you say something to this effect, that the car could not be released until he got the papers? A Until I received the papers, they held me responsible for getting all the data.

Q Then, as you got the papers you released the car and sent the papers to Seabright? A That is correct.

Q And you don't remember anything about this transaction on Monday except that it was handled in the ordinary routine manner, that you usually employ for such transactions? A But that was an unusual case, because this is the only one that I know of where a local salesman handled it for a dealer.

Q But you don't recall, I believe you testified, from whom you received the papers or when you received them or whether they were signed in your presence or anything of that sort? A I do not recall.



*Anna H. Walz, re-direct.*

Q Are these the papers which have been marked for identification S. 21A, S. 21B and S. 21C? A They are.

Q Did you have anything to do with the equipment check sheet, if that is the correct term, the sheet on which Mr. Brady checked the equipment before delivering? A No, that does not come in my department.

Q Do you know anything about the original order, Miss Walz? A They had to send that to the New York office.

Q Will you look at this paper, please. That paper was handled by you as a part of this transaction? A That was taken from my files, that is my O.K.

Q And that is part of your record in this same case? A Yes, sir, it has the motor number and delivery date on the upper right-hand corner.

Q And in putting this transaction through did you rely on this paper as your entire record in order to make up the usual transactions? A I did.

Mr. McGeehan: What paper is that.

Witness: It is a copy of the contract.

Mr. Bigelow: Will you mark this, please?

(The same is marked S. 24 for identification.)

*Re-direct examination* by Mr. McGeehan.

Q You have said you relied upon this document for identification, is that right? A That is our contract and shows it is an order.

Q I beg pardon. A That is our order.

*Anna H. Walz, re-cross.*

Q And when did you get this? A Why, the minute a sale is made I am supposed to get it. Sometimes I do not get it until it is nearly time to deliver.

Q This is an original contract? A That is a carbon copy.

Q Do you know who fills out the name written on the carbon copy here? A It may have been my own writing.

Q Is this your own writing "J. Roma" and the "Monmouth County Packard Company" and the "J. L. Zobel Company." Take a look. A It may have been.

Q It looks something like your writing? A It may have been.

Q That includes the place marked "purchaser" and the place marked "dealer" and by such and such a company, is that right? A Yes, sir.

Q That is referring to the yellow sheet marked Exhibit S. 24 for identification and it is a copy of some original order, is that right? A That is right.

*Re-cross examination* by Mr. Bigelow.

Q Miss Walz, you said that the ink writing on this may have been in your handwriting? A Yes, sir, that was the contract.

Q Well, aren't you pretty familiar with your own handwriting? A Well, a little bit.

Q Well, I want to know, is that your handwriting? A I would say it is.

Q Will you look at it very carefully? A I would say so.

Q Are you sure that it is? A Yes, sir.

Q Is it yours? A Yes.



*Robert Leonard, direct.*

Q No doubt of that? A Yes, sir.

Adjournment until tomorrow, Wednesday, November 24, 1926, at ten o'clock, A. M.

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## NINTH DAY.

Wednesday, November 24, 1926.

Appearances as before stated.

Trial continued.

ROBERT LEONARD, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A 39 Mott street.

Q What is your business? A Hotel room clerk.

Q And what hotel are you connected with? A Hotel St. Francis.

Q How long have you been connected with the St. Francis Hotel? A Three years.

Q Were you connected with the St. Francis Hotel in July, 1926? A Yes.

Q And was your position there that of room clerk then, also? A Yes.

Q As such have you charge of the listing of guests at the hotel? A Yes.

Q I show you a sheet of paper and ask you what it is? A The hotel record.

Q Of the St. Francis Hotel? A Yes.

Q Is that the original record? A That is the original record for that day.

Q What day? A July 3, 1926.

Q And does that or does that not show the registration at the hotel and the entry to the hotel of a person or persons who signed Mr. and Mrs. J. Roma? A Yes.

Q And was this name, Mr. and Mrs. J. Roma, signed by persons entering the hotel? A Yes.

The Court: What date was that?

Mr. McGeehan: July 3, 1926.

(Paper offered in evidence and marked Exhibit D. 5.)

Q Do you know the man who registered as Mr. Roma together with the name Mrs. Roma? A Well, I didn't see him register, but I know the party that was in that room.

Q You know the party that was in what room? A 720.

Q Is that the room Mr. and Mrs. Roma were assigned to? A Yes.

Q How long did they occupy or keep that room? A 17 days.

Q And until what date? A July 20, 1926.

Q Do you see the man here who was the tenant of that room? A Yes.

Q Point him out? A The fellow with the gray suit.

Mr. McGeehan: Indicating the defendant Capozzi?

Mr. Bigelow: That is right.

Q Have you a record of the time of departure of the person occupying room 720? A We have no record of any time, but it must have been between four and six in the afternoon.

Mr. Bigelow: I object and move that that be stricken out.



The Court: Yes, strike it out.

Q Have you any entry of the time of leaving? A July 20, 1926.

Mr. Bigelow: I object, and ask that that be stricken out.

The Court: Strike it out.

Q Have you the record of the date when he checked out and that can be answered yes or no? A Yes.

Q Have you that record before you? A Yes.

Q Is that what you have in your hand? A Yes.

Q And is this record part of the original record of the hotel? A Yes.

Q Can you tell from that, not the hour, but the date that the person checked out?

Mr. Bigelow: Yes or no.

A Yes.

Q Now, what date did he check out?

Mr. Bigelow: I object to that. The nature of this record does not appear, it is a book of accounts. I do not think he should be permitted to testify from that, but from his memory.

The Court: Yes, unless he knows something of this creation.

Q Do you know of your own knowledge when Capozzi, who was living there as Mr. and Mrs. Roma, checked out of the hotel? A I would not know from my own knowledge. The only record I have is the book.

Q Well, did the book refresh your recollection on the subject? A No.

Q Who entered that date there? A Why, the night clerk.

Q What is this sheet called that you just had in your hand? A That is the check out every day.

Q And as room clerk, are these things under your control and direction? A Yes.

Q Are the entries made under your supervision? A Yes.

Q Do you keep track of the rooms and the departure and arrival of the guests? A Yes.

Q And when a person checks out or a person enters do you, as part of your job, compare the record with the vacancy or the possession of the rooms? A Yes.

Q And as such, do you use these records, or this record that you have before you? A Yes.

Q Do you look at that record after entries are made from time to time? A Yes.

Q And the entries made upon it? A Yes.

*Cross examination* on the offer by Mr. Bigelow.

Q You say that this paper was made out under your supervision, I believe? A Part of it was; when I was on duty.

Q When you are not on duty, though, you have no supervision over the man who makes it up, is that correct? A No, sir.

Q Who has charge when you are not there? A Well, the clerk who is on duty.

Q How long, just how many hours are you on duty at a stretch? A Eight hours a day.

Q And then another clerk comes on for eight more hours? A Yes, the other clerk for eight more.



Q There are three clerks? A Yes, sir.

Q And each one has charge of the supervising of the making of this record while he is on duty? A That's right.

Q Now, when you are on duty is this record made up specifically by you, is any of this in your handwriting? A Yes, sir.

Q Will you look at this carefully and see whether any of it is in your handwriting? A Yes, sir.

Q Do you say that that is in your handwriting? A Yes, sir.

Mr. McGeehan: That is the entry concerning room 720, Roma's room, isn't it?

Witness: Yes, sir.

The Court: The witness said before he did not know and it would not refresh his recollection. That is where the difficulty is.

Mr. McGeehan: I don't think I asked him —I asked him whether it refreshed his recollection and he said it does not. I did not know that some was in his handwriting and some in someone else's handwrting; I didn't know that he personally wrote any of that otherwise I would not have asked all the questions that I did.

Q Do you recall when you made and wrote that? A No, I do not.

Q Did you write it as a result of information somebody had given you? A No, sir.

Q Do you recall what day you wrote that? A I don't recall the date.

Q Is that record made up from day to day or do you write it up once a week? A Every day.

Q And you don't know what day you wrote that? A Not from memory, I cannot.

Q Are there any kind of temporary slips made up which you use to make that record? A No, sir.

Q Now, I think you also said on your direct examination that you compared the record here on this slip with actual vacancies in rooms, is that so? A Well, the night clerk does that.

Q You do not yourself go around and open the doors of the various rooms that are vacant as they should be according to this paper? A No, sir.

Q And you did not go to 720 to see that that was vacant? A No, sir.

Q You are sure of the entries, though, as to 720 is entirely in your handwriting? A Yes, sir.

Q But you do not recall when you made it? A I do not recall that, no.

Q And does that entry, that paper, refresh your recollection at all as to when these parties left?

Mr. McGeehan: I object to that, it is undoubtedly proper cross examination on general cross examination, but the present cross examination is merely as to the admissibility of evidence.

The Court: It seems to me that much of this is "Much ado about nothing."

Mr. McGeehan: I don't think so, we have lots of other records and proofs and witnesses.

The Court: As a matter of fact, Mr. McGeehan, this record is not evidential standing alone.



Mr. McGeehan: I think it is admissible in evidence.

The Court: No, if a man can testify from his own knowledge who was in that hotel is not an issue so much as the fact whether he was there on a certain day.

Mr. McGeehan: And then we want to show everything about his activities—

The Court: Just a minute, do not make a speech, Mr. McGeehan.

Mr. McGeehan: I did not intend to.

The Court: Can you tell from your own knowledge or from refreshing your recollection after looking at that whether a man named John Roma left the hotel on the 20th of July?

Witness: No, I cannot, not from my own recollection.

The Court: Will you look at that—well, looking at that?

Witness: No, the only thing I must have checked him out on that day.

The Court: On that day?

Witness: Yes, sir.

Q But you don't now you checked him out? A No, sir.

Q Even after searching your memory and looking at that paper? A Yes, sir.

Mr. McGeehan: Now, I offer the paper in question in evidence.

Mr. Bigelow: I object to that, your Honor, on the ground that it is incompetent and not evidential.

The Court: I don't know whether it really makes much difference one way or another.

Mr. McGeehan: I think it does, I want to put the record of the hotel in, in addition to the evidence of the various witnesses.

Mr. Bigelow: I will withdraw my objection.

(The paper in question is marked Ex. D. 6.)

Q Now, does your hotel keep a record of 'phone calls made by guests at the hotel? A Yes.

Q Does it put those 'phone calls upon charge slips or the bills rendered to the guests? A They put them on the bills.

Q Does the bill that is given show the dates that the 'phone calls were made and the cost of them? A Yes.

Q Do you know whether several 'phone calls were made from room 720 on the 19th day of July?

Mr. Bigelow: I object, unless the witness speaks from his own knowledge.

Witness: No, I don't.

Q Have you examined the records of the hotel to determine three 'phone calls were made on the 19th of July from room 720 at your hotel? A Yes.

Q Did the examination of those records refresh your memory of those details or not, that is, did they make you remember any such 'phone calls or didn't they? A No.

Q Does the bill of the 19th or for the period including the 19th, contain charges for such 'phone calls? A Yes.



Mr. Bigelow: I object. It is immaterial.

The Court: I will allow the question for the time being.

Q I show you three sheets of the St. Francis Hotel numbers 554, 555 and 556 and ask you what they are. Do not give anything that appears on them, but just tell what they are, whether they are letters of credit or checks, or what? A Why, it is the bill for the room.

Q Now, what period of time does that bill cover? A Every seven days.

Q Yes, and what dates are covered by those three sheets I have mentioned? A Seventeen days.

Q From what date to what date? A July 3.

Q Now, will you look at them, please, carefully, and tell us whether they are issued at your hotel? A Yes, they are.

Q Is the original bill given to a guest checking out or paying a bill, or is a carbon copy given to him and the original kept at the hotel? A The original is given to the guest.

Q Are they originals or copies? A These are copies.

Q Are the copies then kept as the record of the hotel? A Yes.

Q And those copies, those papers that you have in your hand, are the copies that the hotel retain as its record? A Yes.

Q Are the bills, the copies such as those, kept as the only record of the hotel of charges against the guest? A No, sir.

Q Are there other records besides? A We have a cash account.

Q So that your cash account would show the amount paid by a person? A Yes.

Q It would not show the items? A Yes.

Q Would it should for instance, those calls and things like that? A No, that is on the bill.

Q But the amount paid would be on the cash account? Is that right? A Yes.

Q Now, I again ask you are those bills the only bills kept of the items of charges of the guests during the stay there? A No.

Q What else is there? A The transcript sheet.

Q And they are both kept on file? A Yes.

Q The transcript sheets are the sheets the original entry is made on, I suppose, and they are transferred to the bills? A Yes.

Q Now, do those bills or the copies of bills—not these particular ones, but in general, show charges for 'phone calls on any given day during the stay? A Yes.

Q Now, do the bills, the records of the hotel you have in your hand, show charges for the 19th of July for room 720?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you take those from the original files of the hotel? A Yes.

Q Had you previously shown them to detectives from police headquarters when inquiries were made there of you? A Yes.



Q And they examined those sheets? A No, these they did not. Duplicates of these.

Q Duplicates of those? A Yes.

Mr. McGeehan: I offer the bills in evidence.

Q Is there a telephone private exchange in the hotel there? A No, sir.

Q Are there telephones in the different rooms? A Yes, sir.

Q When a guest wants to telephone from his room, what is the procedure, is there a coin box in his room? A No, sir, he is connected downstairs at the switchboard by the operator.

Q That is what I meant by a private exchange, there is a switchboard downstairs, is there? A Yes, sir.

Q And an operator? A Yes, sir.

Q You are not stationed on this switchboard, as I understand it? A No, sir.

Q Where are you stationed? A Behind the desk.

Q And where is the switchboard and the operator with reference to the desk? A That is behind the desk also.

Q Right near you? A Yes, sir.

Q And does the girl there keep a record of calls and then hand them over to you? A No, sir, she keeps a record of the calls but does not hand them over to me.

Mr. McGeehan: I have that record here also.

Q Do you make up these bills? A I do not put on the telephone charges, other charges I do.

Q Do you make up these bills in the sense of your own handwriting, do you write those figures, and so forth, on them? A Well, some of them I do while I am on duty.

Mr. Bigelow: I object, your Honor, to the admission of these papers on the ground that they are not evidential. Even if this was a suit for the recovery of this hotel bill, a suit on a book account, these would not be evidential without further proof of the supporting entries on which they are based. These are not primary books of account or even primary records of account and it does not seem to me that they are admissible in this cause.

The Court: Objection sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone pray an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. McGeehan: I would like to have them marked for identification, your Honor.

(Three papers are marked D. 7 for identification.)

*By Mr. McGeehan.*

Q Now, the 'phone charges, who does write the numbers, if there are ten or twenty or thirty a day on the bill, on the carbon part that your hotel keeps, who uses the pen or pencil that marks that down? A On the telephone charges?



Q No, in making up the bill, the prosecutor asked you whether you physically put down those numbers of any prices on the bill? A Well, while I am on duty I do.

Q Well, suppose a bill was being made up and a guest was going out or it was the end of the week, who would write down the figures if it were a ten or twenty or thirty cent telephone charge? A Well, if I was checking them out, I would.

Q And if you were not checking them out who else would? A The clerk who is on duty.

Q Who are the other clerks in the St. Francis Hotel? A George Curtis and Herman Ranger.

Q Now, is there an original record of the hotel that gives the date and the telephone number called from a room? A Yes, sir.

Q Is this that record for July 19, 1926? A Yes, sir, that is it.

Q Does that record show from what room a call comes from, what number is called up and the date? A Yes, sir.

Q Who made that particular record? A The operator.

Q The switchboard operator employed by the hotel? A Yes, sir.

Q In order to get a number, the prosecutor asked you before, how does he call it, does he given it to the switchboard operator? A Yes, sir.

Q And then she calls the number herself? A She calls the number.

Q And does she make an entry of the particular number that is called up for the guests? A Yes, sir.

Q And where is that particular entry for the purpose of making a charge against the guest? A On the telephone sheet.

Q And is that the telephone sheet that you have in your hand? A Yes, sir.

Q Was that also looked at by detectives from police headquarters before inquiry was made of you for it? A Not that I know of.

Q And that was brought by you from the hotel as the record of 'phone calls? A Yes, sir.

Q That is not in your handwriting? A No, sir.

Mr. McGeehan: Will you object to it, Prosecutor on that ground?

Mr. Bigelow: I think I will.

Mr. McGeehan: Well, then, I will not offer it.

Q What is the name of the telephone operator who wrote out the sheets of July 19, 1926? A There were two telephone operators on duty that day.

Q Would the name appear on the upper part B1? A Yes, sir.

Q Is there a Miss Noone there? A Yes, sir.

Q Now, you know the defendant Capozzi, under the name of Mr. and Mrs. John Roma lived there from July 3rd to July 28th? A Yes, sir.

Q And during that time did you see him often? A I saw him about five or six times.

Q And you have no recollection of the physical leaving of the man, that is seeing him go out of the hotel on the 20th of July, have you? A No, sir.

Q Is there a bell boy at the St. Francis named Walter Teplow? A Yes, sir.

*Cross examination* by Mr. Bigelow.

Q Did you know Mr. Capozzi by sight before he came to the hotel on July 3rd? A No, sir.



Q And while he was there you saw him a half a dozen times? A About a half a dozen.

Q Did you see the lady who was registered as Mrs. Roma? A I saw the lady, yes.

Q Half a dozen times? A About that.

Q Did you see anyone with Mr. and Mrs. Roma while they were at your hotel? A No, sir.

Q They were alone on all occasions? A Yes.

Q Were you on duty Sunday, the 18th, do you recall? A Yes.

Q I mean of July. Do you recall what your hours were? A Sunday, the 18th. Four to twelve.

Q And what were your hours on Monday, the 19th? A Four to twelve.

Q Four A. M. to noon? A No, four P. M. to twelve, midnight.

Q Four P. M. on the afternoon of July 19th until midnight between July 19th and 20th? A Yes.

Q And what floor is room 720 on? A The seventh floor.

Q Front or rear? A It is on the west side of the house.

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MAX SILVERMAN, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A 443 Elizabeth avenue.

Q What is your business? A Bail bonds.

Q Are you acquainted with the defendants in this case, Louis Capozzi, Barone and Joseph Juliano? A I am.

Q And did you have any transactions with Capozzi with reference to a Packard car that he was purchasing in the month of July? A Yes.

Q Mr. Silverman, what was the first time that you saw that Packard car, or went to the Packard agency in regard to it? Who were you with, tell us that first? A Why, with Ruff.

Q And is Ruff the defendant Capozzi? A Yes.

Q Go ahead. A I went up with Ruff to see the car, and after he looked at the car, they were to have it for him Saturday morning, so we left there.

Q About what time of the week was that? A I think it was on a Thursday.

Q And before that how many times had you been up there? A Before that Thursday.

Q Yes. A Oh, I had been up a lot of times.

Q How many? A A lot of times.

Q Do you remember being up there on Thursday? A Yes.

Q And the car would be ready on Saturday? A Yes.

Q Now, did you make an effort on Friday, Saturday or Sunday to get the car from the Packard people? A I did on Saturday noon.

Q And did you get the car? A I didn't.

Q Who was buying the car, you or Ruff? A Ruff.

Q And were you active with him in selecting the car and advising him in reference to it? A I was.

Q Did you own a Packard car? A My family owned a Packard car.

Q Now, Mr. Silverman, do you remember seeing Mr. Shelter on any of those dates in regard to the papers in connection with the car or anyone else at the Packard agency? A I did.



Q Now, did you receive some papers from the Packard agency? A I did.

Q When did you receive those papers? A Saturday afternoon, from Miss Walz.

Q Now, do you know where Mr. Shelter was on that Saturday afternoon? A Only what I heard.

Q Well did you hear he went to the automobile races? A I did.

Q Now, who had the original papers? A Mr. Shelter.

Q And was he in town on Saturday afternoon? A No, we could not locate him.

Q And who was trying to locate him? A Miss Walz and myself, over the 'phone from the Packard people. We tried to get him at his home.

Q Now, you got some papers from Miss Walz, did you? A I did.

Q And did you, or did you not, endeavor to have them signed? A I did.

Q When did you see Ruff in regard to them, and when did you have them signed? A I think it was about 9:00 or 9:10 Monday morning.

Q Before you had them signed, did you meet anyone in connection with the papers? A I did.

Q Who did you meet? A Mr. Shelter.

Q Is that the Mr. Shelter who was on the stand yesterday? A That is the gentleman.

Q He was the agent for the sale of the car? A He was.

Q Where did you meet him? A At his home, Sunday afternoon.

Q And when you saw him there, did you have the papers signed at that time? A I did not.

Q Did you, by reason of that, make arrangements to meet him the following morning? A I did.

Q And what arrangements were made about the following morning, and what was said in regard to the papers? A I said if you come over to my house—

Mr. Fisch: I object as to what was said.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. McGeehan: Yes, and not to prove the contents of the conversation, but a circumstance in the chain of evidence that is being proved?

The Court: He said he had a conversation, that is the end of it. Now, whatever your conversation was, did you receive a visit at your home on Monday morning from Mr. Shelter?

Witness: I did.

Q When he came to your house were you up or not? A I was in bed.

Q Did you get up? A I did.

Q Do you know about what time that was? A 8:45.

Q How do you know it was 8:45? A I got one of them big chime clocks, in front of the



door as you enter my home, and when I went down with my bathrobe on to open the door I looked at the clock and it was 8:45.

Q Was that the time he arrived at your home? A Yes, sir.

Q And did Shelter wait while you dressed? A Right in my own room.

Q How long do you estimate it took you to put your clothes on? A About fifteen minutes.

Q Did you have a cup of coffee before you went out? A I did.

Q Did you have breakfast? A I did not.

Q Then when you left your house, about how long do you think it was after 8:45, when he arrived? A I don't understand that question.

Q How long did it take you, from the time Shelter got there, to the time you left the house with him? A About twenty minutes altogether.

Q Where did you go from your house? A Hotel St. Francis.

Q Why did you go there? A I had to go down to get the paper signed to get the car.

Q And who went with you to the Hotel St. Francis? A Mr. Shelter.

Q Whose car did you go in to the St. Francis? A Mr. Shelter's.

Q How long does it take or did it take to drive from your house to the St. Francis Hotel? A That I can't say.

Q You said you live on what street? A Elizabeth avenue, 443, right opposite the park.

Q That is opposite Weequahic Park? A Yes, sir.

Q Can you tell approximately how long it took you, not exactly, but roughly? A About ten or fifteen minutes.

Q When you got to the St. Francis Hotel did Shelter get out of the car or did you get out of the car? A Shelters remained in the car.

Q Where did you go? A I went upstairs. I said to Shelters, "Come on upstairs."

Mr. Fisch: I object to the conversation.

The Court: You had something to say to Mr. Shelter and you left him—

Witness: Yes, your Honor.

Q Did he wait there or go up with you? A He waited in the car.

Q Where did you go? A I went up to room 720.

Q That was whose room? A Ruff's.

Q Did you know at that time what the number of Ruff's room was? A I may have, I wouldn't say I did or I wouldn't say I didn't.

Q Did you ask anyone the number as you went in the hotel? A I can't say that.

Q You don't remember that? A You may have or you may not, is that right? A That's right.

Q Now, when you went in, after going in the hotel and going in that room, who did you see? A Ruff.

Q Is there any question or doubt in your mind that you saw Ruff in his room? A I should say not.

Q Did you have him sign any papers there? A I did.

Q Was there one or more papers signed? A I think there were three papers he had to sign.

Q Are you sure of the number or not? A The number of the room?



Q No, the number of the papers that he signed? A Well, I think there was three.

Q How was he dressed or how did he look when you got into the room? A I woke him up.

Q How was he dressed? A Nothing on him.

Q You woke him up? A Yes, sir.

Q By nothing on him do you mean he had no night clothes on? A No, he was nude, nothing on him.

Q And you woke him up? A I did.

Q After he signed those papers what did you do with them? A I came downstairs and I left Shelters up towards the right-hand side coming out, a little further up; and when I looked I did not see Shelters there with his car, and he tooted his horn and I looked back and he was a little further behind the front entrance of the St. Francis, and I said, "I got the papers signed," and I went up to the Packard people with him.

Q How long were you up in the room, would you say? A About five or ten minutes.

Q You are not sure of the exact length of time, are you? A No, sir.

Q Now, when you went to the Packard people whom did you go with? A Mr. Shelters.

Q Do you know roughly or approximately what time you got there? A I would say about—this is guessing—

Q Yes. A From 9:45 to 10 o'clock.

Q Now, when you got there whom did you see? A Miss Walz, I think that is her name.

Q Did you see the lady on the stand here? A That is the lady.

Q Was she there? A She was.

Q Whom did you give the papers to? A If I ain't mistaken I think I gave them to Mr. Shelters, because Mr. Shelters said he had to put his name on them.

Q Do you think he may have given them directly to Miss Walz? A I don't think so.

Q Now, were Miss Walz and Mr. Shelters and you together at the Packard place? A We were.

Q Do you know whether Miss Walz signed her name as notary or in any other way on the papers? A I do not.

Q Now, after going in and giving the papers, as you say to Mr. Shelters and seeing Miss Walz and Mr. Shelters, did you get the car? A I did not.

Q Did you state anything at the room to Capozzi about phoning him or communicating with him? A I phoned him at the Packard people.

Q I say at the room did you make any arrangements to phone him? A I did.

Q Do you know what time you phoned him from the Packard people? A A little after ten.

Q And was the car ready when you got up there? A It was not.

Q Was the car promised you during that morning for a certain time after your arrival there? A They said between one and two I could have the car.

Q Did you get the car sometime between one and two? A I did.

Q Between the time you arrived with Mr. Shelters and the time you got the car did you remain there or leave there? A The morning of that day with Mr. Shelters?



Q Yes. A I left there.

Q What time did you get back? A I think it was a quarter to one, if I ain't mistaken, between a quarter to one and one o'clock.

Q Somewhere around one o'clock? A Yes, sir.

Q About how long before you actually drove out with the car? A About three-quarters of an hour to an hour.

Q Then did you take that car out? A I did.

Q Now, Mr. Silverman when you went up to look at the car were there several persons with you? A There were.

Q And were there included in those several persons two of the defendants? A Yes.

Q What two of the defendants were included with them? A Joe Juliano and Christopher Barone.

Q And they went to the Packard place with you at the time? A They did.

Q And who else was with you? A Buck Josephs and a fellow I later found out used to be a policeman, I think by the name of Kelly.

Q He was an ex-policeman? A Yes.

Q Were you there when anyone got in and said, "This is my car?" A Chris Barone sat in the front seat, and he said, "This is my car."

Q And were you all admiring it there? A I seen the car before. I left when he made that remark that that was his car.

Q Now, Mr. Silverman, what day of the month was that car delivered? A July 19th.

Q Is there any doubt in your mind about that at all? A There is not.

*Max Silverman, direct.*

Q Was that the same day that you went to Ruff's room to get the papers signed? A I did.

Q Is there any doubt in your mind of that? A There is not.

Q Where did you go from there with the car? A 28 New street.

Mr. Fisch: I object. I do not think that is material.

Q What is that? A 28 New street.

Q And when you went to 28—who left the place with you in the car? A Ruff, a fellow named McFallon, another brother of mine, and myself.

Q What place did you leave with those men? A We went to the Belleville bank.

Q What place did you leave to go to the Belleville bank? A 28 New street.

Q When you left the Packard place with the car, who went away from there with you? A Nobody but myself.

Q And where did you drive it to? A 28 New street.

Q Who did you meet there? A I met McFallon there and my brothers were there.

Q And did Ruff come there? A I telephoned him his car was there, that he better hurry up, because I had to get to the bank in Belleville.

Q And did he come there? A He did.

Q And that is your brother's restaurant? A That is my father's restaurant.

Q Where did you go to from there? A I think it is the Peoples Bank of Belleville. I am not sure. It is on the left-hand side going up and the right-hand side coming down.



*Max Silverman, direct.*

Q And who went in the car from your father's restaurant to the bank in Belleville? A Ruff, McFallon, a brother of mine and myself.

Q How long did you remain at the bank—about what time in the afternoon was this? A We got up to the bank it was about 2:30. I am not sure on the time, about.

Q And did you come back in the car from Belleville? A I did.

Q Where did you get out? A Broad and New.

Q When you got out, who was left in the car? A Ruff alone. We all got out. I got out and Ruff was left alone in the car.

Q Now, did McFallon or your brother come back in the Packard car? A No. I left them there at the bank with a man by the name of Mr. Cutter.

Q Where is Mr. Cutter now? A Morristown and Dover.

Q So then Ruff left you driving his new car, is that right? A He did.

Q And in which direction did he drive in it? A Toward the four corners, Broad and Market.

Q Where did you go when you left the Packard place in the morning? A Francis Child, an attorney, in his office.

Q Did you meet anyone at Francis Child's office? A I did.

Q Who did you meet? A Frank Lester.

Q Is Mr. Lester here? Is that Mr. Lester? A That is the gentleman.

Q You met Mr. Lester at Mr. Child's office? A I did.

Q And what did you meet him for?

Mr. Fisch: I object. I cannot see how that is material.

The Court: Is that material?

Mr. Fisch: I will withdraw the objection.

A I went there to see him about some money I wanted to borrow from him.

Q Did you borrow money from him? A I did.

Q Did you sign a note? A I did.

Q Was that done in Mr. Child's office? A It was.

Q Do you know what time that was done? A Between five minutes to twelve and twelve o'clock.

Q That is the time of the signing of the note? A Yes.

Q How do you know that is the time? A I had an appointment at Child's restaurant at twelve o'clock.

Q With whom? A With Chris Barone.

Q What did you have the appointment for? A I owed him $1,540.

Q What did you borrow from Mr. Lester? A I asked him for $1,550 and he said, "You better take $1,650 and you will have some pocket money."

Q And the note was drawn up in Mr. Child's office? A Yes.

Q Did you meet Mr. Barone? A I did.

Q Did you give him the money you owed him? A I did.

Q How much did you give him? A I gave him $1,500 and I said I would give him the $47 the next day.

Q You gave him the even $1,500? A Yes.



Q Where was it you had the appointment with Chris Barone? A Child's restaurant, twelve o'clock.

Q Where is Child's restaurant? A Market, near Broad.

Q Well, is it east or west of Broad, toward the Court House here, or the other way? A Toward the Court House here.

Q At the time you saw Chris Barone at Childs', who else was there, who else was with you or with him at that time? A With him was Joe Juliano and a cousin by the name of Charlie, that is all I know him by, and Buck Josephs.

Q Is Buck Josephs a prize fighter or boxer? A From what I know, I have never seen him fight.

Q Well, is he Joseph Barone, the brother of Chris Barone? A Yes.

Q And who else? A A fellow they told me was a cousin of his by the name of Charlie.

Q Do you know whether Charlie's last name was Mass or Maceucci? A No, but I could identify him.

Q After paying the money to Chris Barone, where did you go then? A I walked over as far as Branford and Treat place with him. I met a fellow there by the name of Kline, and I owed him $265, and I paid him $200. I borrowed $300 from Chris Barone.

Q So after paying Chris Barone the $1,500, you borrowed $300 to pay another party? A I did.

Q Now, after that did you go up to the Packard Company? A I did.

Q And you went with the men you mentioned before? A I did.

*Max Silverman, cross.*

*Cross examination* by Mr. Fisch.

Q Mr. Silverman, you say you are in the bail bonding business? A I am.

Q You are a professional bondsman, are you? A I am.

Q Have you any other business? A Been in any other business?

Q Are you in any other business? A No, sir.

Q How long have you been a professional bondsman? A A good many years.

Q Are you still in that business? A I am.

Q Still are? A Yes, sir.

Q Do you remember meeting Mr. Bigelow during the summer? A I do.

Q And telling him you were out of that business? A No, I met Mr. Bigelow in his office and I says to him, "I am going out of the business because I have been hit very heavy and I am quitting the bonding business."

Q But you haven't quit it yet? A I cannot quit it, I am booked in too much until I get things cleaned up.

Q Didn't you in that conversation tell Mr. Bigelow that you had made sixty or seventy thousand dollars in that business, but that you had—that you had made sixty or seventy thousand dollars in July and had dropped it all?

Mr. McGeehan: I object to that on the ground the State is not entitled—preliminary questions to a man's occupation are asked by either side, but I don't think the State can go into a lengthy criss-cross examination on the subject of conversations on anything in the world that might have to do in a way with—



*Max Silverman, cross.*

The Court: Objection will be overruled.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A I don't remember.

Q You were trying to get Mr. Bigelow to relieve you of some liability on a bail bond at that time, weren't you?

Mr. McGeehan: I object to that on the ground that it is irrelevant and not pertinent to this inquiry.

The Court: Overruled.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A I did.

Q And didn't you have that conversation with him to give him the impression, convey to him the impression that you were broke and to let down on you?

Mr. McGeehan: I object to that as not pertinent to the inquiry in this cause.

The Court: Overruled.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A I did.

Q So, you did not tell him the truth?

Mr. McGeehan: I object to it.

The Court: Sustained.

Q You have known these defendants for how long? A Well, I know Ruff about two years, I think, I know Barone and Joe Juliano some time, just how long I cannot say the length of time.

Q And Little Joe? A I don't know him.

Q And you knew that Barone and Ruff and Big Joe had been convicted of crime? A I did not.

Q Well, what do you mean you did not know that? A How would I know if they were convicted of crime?

Q Well, you knew their business, didn't you? A I did not.

Q You have been around the Court House right along for several years, haven't you? A A good many years.

Q And you make it your business to find out what is going around here, too, don't you? A I don't know about that.

Q Don't you? A I don't think so.



Q In spite of the fact that you are a professional bondsman? A I look after my business.

Q Yes, and in looking after your business it is your business to know what is going on around the Court House, isn't it?

Mr. McGeehan: I object to that as not pertinent.

The Court: Sustained.

Q And you knew Ruff a couple of years? A I did.

Q Did you know what his business was? A No.

Q And you knew Barone for a long time? A Yes.

Q And you don't know what his business was? A No, sir.

Q You knew Big Joe for a long time? A I did.

Q And you did not know what his business was? A No, sir.

Q Didn't you know that he had been convicted of crime?

Mr. McGeehan: Objected to.

The Court: Sustained.

Q And you did not know what Big Joe's business was? A I did not know.

Q You don't know what the business of any of these defendants were?

Mr. McGeehan: I object to that, he has answered that ten times. I have been counting.

The Court: He has repeated that.

Q And you were very much interested, weren't you in the purchase of this Packard car? A I was.

Q Did you have an interest in the car? A I did not.

Q No financial interest at all? A I did not.

Q Just doing this as a friend of Ruff's? A Well, I was doing something that I was having something done for myself unbeknown of Mr. Ruff.

Q And you were having something done for yourself? A Unbeknown to Mr. Ruff.

Q What were you doing for Mr. Ruff? A I had a loss here of $10,000 on a man by the name of Ruben Bass, and I am known everywhere I go, when I step into a cafe or a cabaret or different places the people know me, so I thought I would use Ruff, unbeknown to him, to go into a cafe for me, and I have taken him out of town and I would come in ten or fifteen minutes later and sit down at his table and look around and see if my man who run away on bail was there.

Q And Ruff told you that he knew Bass? A He did not.

Q Do you know that Ruff knew Bass? A I do not.

Q What would be the occasion, then, of taking Ruff with you? A To send him in to get a table and sit down and then I would walk in, and I would sit down so nobody would see me come into the place.

Q So, you thought if Ruff came in and took a seat and if you came in afterwards that nobody would see you come in? A I did.

Q Is that right? A Anybody that knew me, people would see me come in, but anybody that knew him would not see me come in.



Q Because you came in after Ruff came in? A I would send him in ten or fifteen minutes sooner.

Q And you would send him in ten or fifteen minutes ahead of you? A Yes, sir.

Q And then you would come in? A Yes, sir.

Q And the reason you did that was when you came in nobody that knew you would see you, is that right? A That's it.

Q And Bass, he had been charged with a hold-up, hadn't he?

Mr. McGeehan: I object to that, your Honor.

Mr. Fisch: The witness himself brought it out.

The Court: Sustained.

Q And that is what you are having done for you in this Packard transaction? A I did that, and going with Ruff to Chicago, he had a Packard car—

Q You went to Chicago with Ruff? A Yes, I stated that is what I used him for. I went to Chicago with Ruff, I went out to Chicago looking for Bass.

Q You went out there in this Packard car, did you? A I did not.

Q You went out with Ruff? A I did.

Q And was that before the Packard car was purchased or after? A Before.

Q So, that you had already been out to Chicago before this Packard transaction? A My first trip I was.

Q And did Roma stop with you? A In Chicago he did.

Q The same hotel? A He did.

Q What hotel was that? A The Congress hotel.

Q You were with him all the time? A Yes, sir.

Mr. McGeehan: I object on the ground that it is not cross examination on the direct examination.

The Court: Overruled.

Mr. McGeehan: The witness has stated he was in Chicago with him. Now, can the prosecutor go into cross examination on a subject which he has stated very frankly?

The Court: I will allow the question.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Were you known in Chicago?

Mr. McGeehan: I object to that as not pertinent to this inquiry, nor is it cross examination.

The Court: I cannot see the materiality of that.

Mr. Fisch: The witness has testified—

The Court: No, I will rule against you.

Q And you feel that Ruff did you a favor to go out to Chicago with you? A Well, I don't know if he did me a favor or not.



Q Well, that is how you felt about it? A I used his unbeknown to him. He never knew what he was going out there for.

Q Just on a pleasure trip? A I didn't tell him, I said, "Do you want to take a trip to Chicago"? I said, "Come along, and I will pay all expenses."

Q But whether he knew it or not, he was doing you a favor? A He was, to my opinion.

Q And under what name were you registered at the Congress hotel?

Mr. McGeehan: I object to that as not cross examination.

The Court: I will allow it.

A Max Silverman.

Q And under what name was Ruff registered?

Mr. McGeehan: I object to that upon the same ground, not pertinent at all to the direct examination.

The Court: I will allow the question. The witness has made statements on cross examination and now they are being followed up.

A I don't know.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Don't you know he was not registered there at all? A I don't know.

Q Now, did you have any inkling at all as to what Ruff's business was?

Mr. McGeehan: I object.

The Court: Sustain the objection.

Q Now, you had no other interest in that car whatever, did you? A I did not.

Q And yet you were active in selecting it? A I was.

Q And you were active in checking it up? A I was.

Q And you were active in obtaining delivery of it? A I was.

Q And you were active in obtaining the signatures for it? A I was.

Q In spite of the fact that you had no interest in it except what you told us? A Well, I will tell you why I was active, if you want me to.

Q Well, I have asked you the question. Please answer it. A No, outside of one reason.

Q You had no other interest in the car except what you have told us? A No.

Q Before the delivery of that car, you had seen Ruff pretty often, hadn't you? A I did.

Q Well, you saw him every day, didn't you? A Practically.

Q Well, you saw him on Saturday when you were trying to get delivery of the car? A I didn't.

Q Did you see him on Friday? A I didn't.

Q Did you see him on Thursday? A I did.

Q And where did you see him Thursday? A Ruff and myself went up to the Packard people.



Q You saw him at the Packard place on Thursday? A We went up together.

Q Well, you went up together on Thursday? A Yes.

Q And you did not see him Friday? A I didn't.

Q And when you were there on Thursday, you were talking about the delivery of this car on Saturday? A I did.

Q And Ruff was there when you talked about getting delivery on Saturday? A He was.

Q Did you make an appointment for the delivery of the car on Saturday on that Thursday? A Well, I had an appointment to have it delivered by Saturday.

Q At what time? A About noon.

Q And you were told at that time and Ruff was told that certain papers had to be signed? A He was.

Q And you did not see him on Friday? A I didn't.

Q And you did not see him on Saturday? A I didn't.

Q In spite of the fact that he was to get delivery of that car on Saturday and was to sign some papers? A That is right.

Q Did you see him on Sunday? A I didn't.

Q Did you try to see him on Sunday? A I did.

Q Where? A I kept calling the hotel.

Q What time did you call the hotel? A A few times in the afternoon.

Q Did you go to the hotel? A I didn't.

Q And you knew he was at the hotel on Sunday? A I didn't know he was at the hotel on Sunday.

*Max Silverman, cross.*

Q You were very anxious to get the papers signed? A No. I was not anxious about any papers. That is Mr. Shelter's job.

Q Well, Mr. Shelter had the original papers, didn't he? A He did.

Q And you got a set of duplicate papers? A I did.

Q And why did you get the set of duplicate papers? A Why, to get the car Saturday.

Q Because you wanted to get the papers signed? A I wanted to get the car Saturday.

Q But you wanted those duplicate papers to get them signed? A I didn't know they had to have them signed. Miss Walz said she could not give the car out unless she had the papers signed and the balance of the money for the car.

Q When was that? A Saturday.

Q Didn't you tell us a moment ago that the papers had to be signed before the car went out? A Mr. Shelter—

Q Answer the question. A Yes.

Q Yes, you knew that on Thursday? A Yes.

Q And so on Saturday, you got a duplicate set of papers? A I did.

Q Because Mr. Shelter had the original papers in his possession? A That is right.

Q And you got that duplicate set of papers so that you could get them signed by Roma? A That is right.

Q That was the name that Capozzi or Kid Ruff was going under? A That is right.

Q And what time on Saturday did you get those duplicate papers? A I think it was a little after twelve.

Q And as soon as you got them, you were anxious to have them signed, weren't you? A I was.



*Max Silverman, cross.*

Q And still you did not go down to the St. Francis hotel and see Ruff? A I called him from the Packard people.

Q You called him? A I did.

Q Whereabouts? A From the Packard.

Q Whereabouts from the Packard? A From the office.

Q Whereabouts, on the first floor? A On the second floor.

Q And who was present? A That I don't know. Miss Walz must have been there, that lady who testified yesterday.

Q And who else? A Nobody else.

Q Just Miss Walz? A Yes.

Q She was there and you were there when you made the telephone call? A No. I made the call outside of her office. There is a little office and outside of her office is where the 'phones were.

Q And so nobody else was there? A Well, she was there when I 'phoned. She could have heard me.

Q You said outside of her office. A Well, here is her office and outside of her office was a desk with a telephone.

Q So she was near enough to hear the conversation? A She was.

Q And nobody else was there? A I don't think so.

Q And did you speak to Ruff? A I didn't.

Q I thought you said you called him? A I called him at his hotel and he was not in.

Q And then you went to seek him out, didn't you? You got the duplicate papers and you went to seek him out where he was? A No, because Miss Walz said the car could not go out, there would have to be some money paid and the

insurance had to be on it and to leave it go until Monday morning.

Q Well, there was not any additional money to be paid after Mr. Shelter had advanced all the cash?

Mr. McGeehan: I object. There is no testimony to that effect.

The Court: Find out whether he knows it.

Q Shelter had advanced all the cash that needed to be advanced in the transaction? A He was to advance it, yes.

Q And he had advanced it on Thursday, hadn't he? A I don't think so.

Q You don't think so? A No.

Q Will you say that he did not? A Well, I cannot say for sure. I would not say he did or I wouldn't say he didn't.

Q You would not be positive about that? A No.

Q But whatever cash had to be advanced, was to be advanced by Shelter? A It was, I might say so.

Q So that the cash had nothing to do with it? A It sure did, what Miss Walz told me.

Q When did Miss Walz tell you that? A Saturday.

Q She told you on Saturday that some money had to be paid? A She did.

Q You are sure of that? A As far as I can remember, I am.

Q Well, now, are you sure about that? A Well, as far as I can remember.

Q Well, would you say that she didn't say anything about money on Saturday? A No, I wouldn't say she did.



Q And you wouldn't say she didn't? Is that it? A What do you mean?

Q You wouldn't say that she did say anything about money on Saturday, and you wouldn't say she didn't say anything about money on Saturday? A Well, if I can refresh my memory, I am pretty sure, but I won't swear to it, that that is the remark made to me. I could not get Ruff at the hotel and she said there would be no use this afternoon, because we have got to have it insured before the car goes out, I have got to have the papers signed. Now, I am positive, but I wouldn't swear on it, as far as I can refresh my memory, I think that is what she said.

Q Well, can you tell this Court and jury why you are positive about something you won't swear to?

Mr. McGeehan: I object.

The Court: Well, it is the witness' own answer. You know everything you are saying here you are swearing to?

Witness: I know that, but I wouldn't make any sure statement about the check.

The Court: Then you won't say one way or the other?

Witness: No.

Q Then you are not positive? A I am positive.

Q And you and Shelter had done business together before? A We did.

Q And you were very good friends, weren't you? A Very good friends, yes.

Q You lived in the same neighborhood? A No, good friends through business.

Q And you lived in the same neighborhood? A No, he does not live in my neighborhood.

Q Well, he does not live far away from you? A No, he lives on the other side, on Frelinghuysen avenue.

Q It is called the Weequahic Park section? A I don't know if it is called the Weequahic Park section. He lives on Dayton street, that is one street in.

Q And you live on Elizabeth avenue, and that is one block from Frelinghuysen avenue? A Well, if you call that a block, it is a pretty long block.

Q Well, is it a block? A I don't know, I never measured it.

Q Never measured it? A No.

Q Well, are there any streets intervening between Elizabeth avenue and Frelinghuysen avenue? A Are there any streets where?

Q Intervening? A My corner, where I live, there is one street that runs down clean to Frelinghuysen avenue and it is more than one block.

Q Well, there are no streets intervening, are there? A There is just a new street put in there.

Q All right, then, it is two blocks? A I think it is.

Q So he does not live very far away from you, does he? A Well, I wouldn't call it far.

Q You had a number of business transactions with him? A Only buying Packard cars.

Q He knew you well enough to advance this money, didn't he, on your say-so, as you say? A He did.

Q And you went to Mr. Shelter's house a couple of times in regard to these cars, didn't you, at one o'clock in the morning, didn't you? A I went to his home, yes, sir.



Q At one o'clock in the morning? A I won't say the hour, it might have been one and it might have been two, it might have been twelve, I generally get around there sometimes late to see him when I wanted to see him.

Q And you had been to the St. Francis Hotel with Shelters on more than one occasion in connection with this transaction, hadn't you? A I have not.

Q Only there once? A With Mr. Shelters.

Q What? A With Mr. Shelters.

Q Do you know whether Shelters was there more than once?

Mr. McGeehan: I object. He said he was only there once with him.

A That I don't know.

Q You were there a number of times yourself, were you? A I was.

Q And you were in Ruff's room? A I was.

Q And on any of these occasions when you were in Ruff's room was anybody else in his room? A No, not that I know.

Q Never nobody else in his room while you were there? A No, not while I was there.

Q There wasn't anybody in Ruff's room this morning you are talking about, was there? A No, sir.

Q And you went right up to his room, didn't you? A I did.

Q And you knew what his right name was? A I did not.

Q You have known him for two years? A Yes.

Q You never knew what his right name was? A I did not know until I heard it in court here.

Q You knew his name as Ruff, didn't you? A I knew him as Ruff.

Q That was the only name you knew? A I knew him when he bought the car and had to give his registration card to the Packard people it said on it Roma.

Q That is the first you knew of him as Roma? A That is the first I knew.

Q Now, you were trying to get delivery of the car on Saturday, weren't you? A I was.

Q And you went up to the Packard people on Saturday? A I did.

Q And you went up there to check up on the car? A I did.

Q And the equipment was all checked up on Saturday with you? A It was not.

Q Well, you checked up the equipment, didn't you? A Not on Saturday.

Q When was that? A Monday morning.

Q Who was present when the equipment was checked up? A I think Mr. Shelters, if I ain't mistaken.

Q May you be mistaken about that? A I can't say on that positive. I think Mr. Shelters was there because I signed the slip.

Q You signed the slip? A I did.

Q Did you sign your name? A No, sir.

Q Whose name did you sign? A Roma's.

Q You signed John Roma, did you? A I did.

Q And your name did not appear anywhere in the transaction, did it? A It did not.

Q Although Mr. Shelters was advancing this money on your say-so? A He was.

Q Now, Shelters had been to your home on more than one occasion, hadn't he? A He has.

Q On a number of occasions, hasn't he? A He has.



Q In connection with the sale of Packard cars? A He has.

Q Are you in the business of selling cars? A I should say not.

Q Your only business is a professional bondsman, is that right? A If that is the way you call it, it is.

Q Well, that is what it is, isn't it? A Yes.

Q And what were your business dealings with Barone? A I know Barone.

Q Well, what were your business dealings with him?

Mr. McGeehan: I object; he hasn't testified he had any business dealings with him.

The Court: Sustained.

Q Did you have some business dealings with Barone? A I did not.

Q Didn't have any business dealings with him at all? A I did not.

Q You testified, didn't you, that you owed him $1,500? A I did.

Q Wasn't that a business deal? A I should say not; I borrowed it off him.

Q Oh, that was his business, wasn't it? A No.

Q You knew that Barone well enough to borrow $1,500 from him? A I did.

Q When did you borrow it from him? A I think ten days or two weeks before he got it back.

Q You didn't give him any security? A I did not.

Q You knew him well enough to borrow $1,500 from him without security? A Yes, sir.

Q And you still don't know what his business was? A No, sir.

Q And you knew him well enough when you borrowed the $1,500 from him to go back the same day and borrow $300 more from him to pay somebody else?

Mr. McGeehan: I object, he didn't say he borrowed it the same day, he borrowed it when he paid back the $1,500, and that should establish anyone's credit.

Witness: What is that question?

Q You knew him well enough, after having borrowed $1,500 from him and on the same day you paid it back, you knew him well enough to go back and borrow money without security to pay someone else? A Five or ten minutes later I asked him for $300.

Q You did not know what his business was? A I did not; I don't know what his business is today.

Q And you did not know anything about his reputation?

Mr. McGeehan: I object.

The Court: Sustained.

Q And do you know where he lived? A I did.

Q Did you know where Big Joe Juliano lived? A I did not.

Q Did you know where Kid Ruff lived before he was at the St. Francis? A I do.

Q Did you visit Ruff? A Where, at the other place where he lived?

Q Yes. A I did.

Q And you were on friendly terms with him? A I am.





Q You have been for two years? A I am.

Q And did you visit Barone? A I did.

Q And you were on friendly terms with him? A I was.

Q And had been for how long? A From the time I had known him.

Q How long? A Well, I stated I know him for a long time, but I don't know how long.

Q How long? A I cannot say, it may be in the months or it might be a couple of years.

Q It may be what? A In the months or it may be a couple of years.

Q Well, it is at least a year? A I think it is more than a year.

Q Do you think it is more than a year and a half? A I think so.

Q Do you think it is more than two years? A Around about two years.

Q And Big Joe, you were on friendly terms with him, weren't you? A I don't know what you mean by "friendly terms."

Q Well, you know what it means to be friendly with anybody, don't you? A I am friendly with everybody.

Q You are every man's friend, are you? A Yes, I am friendly with you, too.

Q You are every man's friend? A If that is what you mean by friendly.

Q You mean it is your opinion that you are friendly with me? A Yes, that is my opinion.

Q You don't know whether it is reciprocated or not, do you? A I don't know.

Mr. McGeehan: I think it is for the jury to judge.

Mr. Fisch: I am satisfied.

Q Well, you met him on several occasions, didn't you? A I did.

Q You went out with him, didn't you? A I did not.

Q You were in his company? A I was.

Q At various places? A I was.

Q In Newark? A Yes.

Q And outside of Newark? A No, sir.

Q Always in Newark? A Yes, sir.

Q And you were in his company for long periods of time? A I don't know what you mean by "long periods of time."

Q Well, a couple of hours, three hours at a time? A Probably.

The Court: You did not play golf with him or anything like that?

Witness: No, sir.

Mr. McGeehan: What kind of golf, judge?

Q A different kind of friendliness than you allege exists by you toward me, isn't it? A I have been in your company for two or three hours at a time, Mr. Fisch.

Q Waiting around at the prosecutor's office? A No, talking to you, and I think you are tickled to death to talk to me at times, time and time again.

Q You thought so? A You know so, too.

Q I say, you thought so.

Mr. McGeehan: Your Honor, this is like "Says you says I."

The Court: Let us get down to the business of the day.

Q Well, you were friendly with Big Joe, weren't you? A Just as friendly as I am with you.



Q Well, a little more friendly with him? A I should say not, Mr. Fisch, not a little more friendly, just as friendly as I am with you.

Q And is that what you say about Kid Ruff, too? A Yes, sir.

Q Not more friendly? A No, just as friendly as I am with you or anybody else.

Q And also with Barone? A Yes, sir.

Q You never borrowed any $1,500 from me, did you? A Well, you can never tell; I am liable to come and ask you, and if you turn me down—

Q Will you please answer my question? A Well, I never asked you for $1,500.

Q When did you make this appointment to meet Barone at 12:00 o'clock at Child's? A Sunday afternoon.

Q Where did you see him on Sunday afternoon? A Barone, Mr. Cutter, McFarland and myself drove over to Shelters' home.

Q To Shelters' house? A Yes, sir.

Q So. Barone was at Shelters' house, was he, on Sunday? A Yes, sir.

Q That's right? A It is.

Q Mr. Cutter, the man that you borrowed money from? A I never borrowed no money from Mr. Cutter.

Q Well, he is a friend of yours, isn't he? A I don't know; I only know him a short while.

Q You are not so friendly with him? A He is trying to sell me a car, that's all.

Q And was Big Joe there, too? A He was not.

Q That was the time you made the appointment to meet Barone, at 12:00 o'clock on Monday? A Not right at his home, after I left him, when he left me off at my home I was to give

him that money a week before, and I didn't have it, so I kept telling him from day to day.

Q So, you made an appointment with Barone on Sunday? A To meet him at Childs' on Monday at 12:00 o'clock.

Q And you say you kept the appointment? A Ten or fifteen minutes past twelve I was there.

Q And he was there? A He sure was.

Q And Buck Josephs, his brother, was there with him? A He sure was.

Q Now, you say you met Ruff on Monday afternoon? A I did.

Q Is that right? A That's right.

Q Did you call Ruff up from the Packard place on Monday? A I did.

Q Whereabouts in the Packard place? A My first call was from the Packard people when I could not get the car until the afternoon.

Q Whereabouts in the Packard place? A Upstairs where I made the call on Saturday.

Q Who was present when you made that call? A There was a lot of help around there; I don't know their names.

Q You don't know the names of any of them? A All the help was around there.

Q All the help was around and you don't know the names of any of them? A No, outside of this young lady who is here.

Q Was Mr. Shelters there? A No, Mr. Shelters left, I think.

Q And did you get Ruff on the phone? A I did.

Q And you don't know the name of anybody who was there at the time you made this telephone call? A No, I do not.

Q Nobody at all? A Outside of that lady, the one who testified here.



Q Miss Walz? A Yes.

Q Are you sure she was there? A Well, I think she was.

Q You would not be sure she was? A No.

Q You are not positive about that, either? A No.

Q And then you say you met Ruff later in the day? A I did.

Q How was he dressed? A Ruff was dressed in the same suit he has got on now, if I ain't correct, with a cap. He came there with a cap on.

Q He had a cap on? A Yes.

Q He did not have a straw hat on? A No.

Q You are sure about that? A I am positive about that.

Q You never saw him with a straw hat? A I did.

Q When did you last see him with a straw hat? A Well, possibly a week before, five days before.

Q Well, he had a straw hat on Thursday? A He had one of them straw hats that has a split in the center, like my soft hat.

Q He did not have a stiff straw hat on? A No.

Q You are sure about that? A Positive.

Q You have been in court here when people have been testifying that the defendant was present at the scene of the hold-up and he had a stiff straw hat on?

Mr. McGeehan: I object.

The Court: Sustain the objection.

Q Do you remember the time when Barone was arrested in this case? A No, I don't.

Q You do not remember that? A No.

Q Well, you were interested, weren't you?

Mr. McGeehan: I object. That is not cross examination.

Mr. Fisch: I will withdraw the question.

Q Didn't you go to retain counsel for Barone in this case after his arrest? A I did not.

Q Did you go to Mr. Siegler's office to have him obtain a writ of habeas corpus?

Mr. McGeehan: I object to that as not cross examination.

The Court: It goes to show interest. It is permissible on that ground.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A No, not through me. I was to his office, but I did not get no writ out for the defendant.

Q But you went to Joseph Siegler's office, a member of the Bar of this State? A I was to his office?

Mr. McGeehan: I object to that on the same ground.

The Court: I will allow it.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.



Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q In connection with this case? A No.

Q In connection with Barone? A No.

Q In connection with one of his friends? A No.

Q You did not go there at all? A I was there.

Q But you were not there in connection with this case? A No.

Q And didn't you speak to Mr. Siegler in the presence of Mr. Fishkind, an official stenographer of this Court?

Mr. McGeehan: I object on the ground that that is not binding on the defendant.

The Court: No, not binding on the defendant, but showing the interest this man might have in this case.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A I didn't.

Q Now, the papers which you wanted to get signed by Capozzi, Kid Ruff, Roma, you had in your possession on Saturday, I understand; that is right? A Yes, it is.

Q And you had them in your possession on Sunday? A I didn't.

Q And you had them in your possession when you were in Mr. Shelter's house? A I did.

Q And you had them in your possession when you saw Chris Barone on Sunday? A I did.

Q Now, at what hour did you say you got these papers on Saturday? A A few minues after twelve.

Q Three minutes after twelve? A A few minutes.

Q And these papers were all with reference to a financing of this automobile? A It was.

Q And, as a matter of fact, the automobile was not financed at all? A It was.

Mr. McGeehan: I object to that. It is too general a question.

The Court: Well, be specific, if you can.

Q Don't you know that the finance company turned it down? A I don't.

Q You don't know that? A No. I know it was financed.

Q You know the car was delivered? A I do.

Q Upon the payment of money which Mr. Shelter advanced? A I do.

Q But you do not know that the finance company refused the risk? A I know a finance company financed the car.

Q You say a finance company? A Yes.

Q What finance company? A A man from Seabright.

Q But these papers were made out for the financing of the car by the Motor Finance Corporation? A I don't know that.

Q And you know that the Motor Finance Corporation did not finance the car? A I don't know that.



Q Will you say they did or did not? A I can't say.

Q I show you Exhibit S. 21, a, b and c for identification, and ask you if these are the papers you had in your possession from Saturday—on Saturday and on Sunday and on Monday.

Mr. McGeehan: Show the witness all of them. Are they three separate exhibits?

Mr. Fisch: Yes.

The Court: They are marked as one exhibit, a, b and c.

Mr. Fisch: That is right.

A The same papers.

The Court: Are those the papers produced by the prosecutor when Mr. Shelter was on the stand?

Mr. McGeehan: Yes, I think they were. I will offer them in evidence.

Mr. Bigelow: I suggest it appear on the record that D. 8, a, b and c, are the same papers as marked S. 21, a, b and c.

(Papers marked D. 8, a, b and c.)

Q And these papers which have been marked in evidence D. 8, a, b and c, are the ones that you were so anxious to get signed? A I was not anxious to get them signed. When I went for the car Shelters was supposed to have him sign, that is his duty, and Miss Walz said—

Q I think you have answered my question. A I was not so anxious.

Q And did you answer my question?

Mr. McGeehan: Well, the witness says he does not think so—

The Court: He said he was not anxious.

Mr. McGeehan: But the witness may continue and complete his statement.

The Court: That would not be a good rule in all cases.

Mr. McGeehan: I agree with you.

Q Now, you went up to the Packard place on Monday to get the car? A I did.

Q And who did you say went with you? A Mr. Shelters.

Q Didn't you say that Chris Barone went with you? A That was late in the afternoon, the second time.

Q Well, that was when you went to get the car? A I went in the morning to get it, too.

Q And you went in the afternoon? A Yes, I did.

Q And when you went in the afternoon to get the car and did get the car Barone was with you? A He was, and Julian.

Q And McFarland was with you? A No, I did not say McFarland.

Q Who else was with you? A Julian, Barone, Buck Josephs and some man who was a policeman or is a policeman on the force by the name of Kelly.

Q And when you say Julian, you mean Big Joe Juliano; is that right? A Yes, sir.

Q They went up there with you? A They did.

Q Did you talk to them about the car? A I rode in Juliano's car; I said, "Take me up so I can get Ruff's car."

Q And you had talked about the car in Chris Barone's presence on Sunday, hadn't you? A I think I did.



Q And they were present when the car was delivered? A They were not.

Q They went up with you for that purpose? A No, they did not; they came in because Barone was trying to swap a Cadillac car that his mother owned, if I am correct, for a big eight sedan.

Q Now, you stayed there from the time you got there with Big Joe Juliano and Chris Barone and these other men whom you have mentioned from the time the car was delivered to you? A I did.

Q And did they stay there with you? A No.

Q They went away, did they? A Yes, sir.

Q You took the car along with you? A Yes, sir.

Q You are sure about that? A Positive.

Q How long before you took the car out alone did they leave the Packard place? A Oh, they probably went a half an hour before.

Q Were you informed in their presence before that you were going to get delivery of the car then? A No; I had to wait either three-quarters of an hour or an hour when I got there. They stayed around about a few minutes. There was a man selling stock about some safety razor or something.

Q What time did you get there when you went there with Barone and Big Joe and these other people? A I think it was 12:45 or 1:00 o'clock.

Q When you left with the car about what time was it? A 1:45.

Q I show you S. 22 for identification and ask you if that is the paper you signed at the Packard place? A Yes.

Q That is the paper you signed with the name of John Roma; is that right? A It is.

*Re-direct examination* by Mr. McGeehan.

Q In Exhibit D. 8 is the signature, or are the signatures as appear to the left of the printing signatures of purchaser; I am pointing to three signatures, on three different papers, all part of the same exhibit; are they the names signed by the defendant Capozzi on that Monday morning when you went to his hotel? A That is the name signed. I know him, John Roma. I did not know him under the name of Capozzi.

Q But you know the defendant Capozzi did sign them? A Yes.

Q Are those his signatures? A Yes.

Q And I notice alongside of them pencil crosses. Were they put there when the papers were given to you to show you where you should have him sign it? A They were, by Miss Walz.

Q Exhibit S. 22 for identification was shown to you and you signed that name of John Roma there? A I did. That is Mr. Shelter's pencil mark.

(Paper offered in evidence and marked Exhibit D. 9.)

Mr. Bigelow: I suggest it appear that D. 9 is 22 for identification.

*Re-cross examination* by Mr. Fisch.

Q The signatures which are on D. 8, a, b and c, you say they were signed in your presence? A They was.

Q Nobody else present? A No.

Q I call your attention to the fact that the paper shows that the signatures are witnessed by Mr. Shelter and a young lady, a Miss Grace





Sheridan; neither of those people were present at that time? A No.

Q Neither of those people saw Roma sign his signature? A No.

Q And they attached their signatures to the paper after he brought them up to the Packard place? A I don't know where they did.

Q Well, they had not attached their signatures up to the time you brought the papers up to the Packard place? A Not that I know of.

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FRANK A. LESTER, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A Robert Treat Hotel.

Q How long have you lived at the Robert Treat Hotel? A Eight years.

Q What business are you in? A Retired.

Q What business were you in? A Jewelry.

Q Wholesale or retail? A Wholesale.

Q And where was your plant? A 28 Prospect street.

Q East Orange or Newark? A Newark.

Q How long were you engaged in that business? A Twenty-two years.

Q Now, are you acquainted with the witness, Max Silverman, who just left the stand? A Yes.

Q And did you loan him some money on the 19th of July last? A Yes.

Q How much did you loan him? A $1,650.

Q Where was that loaned to him? A In the office of Francis Child.

Q What time did you loan it to him, if you know? A Oh, I should judge between a quarter past eleven and a quarter to twelve.

Q Some time late in the morning? A Yes.

Q And did you receive a promissory note for that? A Yes.

Q Have you that? A Yes.

Q Let's see it, please. Have you also the check? A Yes.

Q Is this the note that he signed for you to secure that money? A Yes.

(Note offered in evidence and marked Exhibit D. 10.)

Q You are not worried about that, are you? A Not at all.

Q Now, did you care to give the cash to Mr. Silverman, Mr. Lester? A Yes, sir.

Q I show you a check purporting to have been drawn by Frank A. Lester on the Fidelity Union Trust Company to the order of Frank Child, and indorsed Frank Child and Francis Child, written immediately under Frank Child. Is that the check which you cashed for the purpose of getting the money? A Yes, sir.

Q And did you pay it to Mr. Silverman in cash? A Yes, sir.

Mr. McGeehan: I offer the check in evidence.

(The same is received and marked Ex. D. 11.)

Q Did Mr. Silverman tell you what he wanted that money for? A No, he did not tell me what he wanted it for, he said—



Mr. Bigelow: I object.

The Court: That is immaterial.

Q Do you mind having that note remain here, Mr. Lester?

Mr. Fisch: I think it would be better for Mr. Lester to take it.

The Court: Suppose you read it into the record.

Mr. McGeehan: Yes, Exhibit D. 10, it is consented shall be withdrawn from the possession of the Court. Exhibit D. 10 is a promissory note for $1,650 reading as follows:

"$1650 Newark, N. J., July 19, 1926.
On Demand after date I promise to pay to the order of Frank A. Lester
Sixteen hundred and fifty dollars.
Payable at Fidelity Union Trust Company, Newark,
Value received with interest to date.
(Signed) Max Silverman."

Mr. McGeehan: There is no indorsement upon it.

*Cross examination* by Mr. Bigelow.

Q Mr. Lester, where did you meet Mr. Silverman that day? A In Francis Child's office.

Q Did you get to the office first or did he? A No, I think I got there first, as I remember it.

Q And then after he came did you draw this check to the order of Mr. Child? A Yes, sir.

Q Did you go out to the bank and cash the check? A No. Mr. Child's secretary went to the bank and cashed the check.

*Vernon B. Shelter, cross.*

Q And you waited there until the cash came back? A Yes, sir.

Q And by handling it that way Mr. Silverman's name did not appear on the check? A No, sir.

Q How long did you stay there at the office, about? A About three-quarters of an hour.

Q Did you and Mr. Silverman leave together? A No, he left before I did.

Q And you remained there, I suppose with Mr. Child? A Yes, sir.

Q Was Mr. Child's office on the 10th floor of the Fireman's Building or was it the Federal Building? A No, it was the Federal Trust Building on the 14th floor.

*Re-direct examination* by Mr. McGeehan.

Q You say Mr. Child's secretary went to the bank and got the money? A Yes, sir.

Q Was he known at the bank? A Yes, she is known at the bank.

Q That is why you made that check out in Mr. Child's name to have Mr. Child endorse it and his secretary could go to the bank and cash it? A Yes, sir.

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VERNON B. SHELTER, recalled.

*Cross examination* by Mr. Fisch.

Q Mr. Shelter, you have testified with regard to seeing Mr. Silverman, Max Silverman, on the 19th of July? A Yes.

Q I do not know whether you were asked or not, but I would like to ask you now, you are friendly with Mr. Silverman? A Yes.



*Vernon B. Shelter, cross.*

Q You live in his neighborhood? A I live directly across the park, Weequahic Park.

Q Well, it is not very far from Mr. Silverman? A Half a mile.

Q And you have often been to his house? A Well, several times, yes.

Q And you have had a number of business transactions with him? A I sold him two new Packard cars and I had other business transactions with him.

Q And you hope to sell more? A Positively.

Q And you have made money through him? A Yes, that is, I have sold cars to Max in the name of his family, I might term it that way.

Q You call him Max? A Yes.

Q And he calls you by your first name? A My last name.

Q He calls you by your name Shelter? A That is right.

Q Do you know Detective Conlon and Detective Bell? A Yes.

Q And did they talk to you about a month ago concerning this transaction? A Yes.

Q And didn't you tell them at that time that you did not see Silverman on July 19th, but that you went direct to Bernardsville from your house, yes or no? A I don't know that I told them I went direct to Bernardsville from my house, but I did tell them I didn't see Silverman, as I recall, but that I did go to Bernardsville.

Q You did tell them that you did not see Silverman on the 19th of July? A That is right.

*Vernon B. Shelter, re-direct—re-cross.*

*Re-direct examination* by Mr. McGeehan.

Q Did you have the papers in your possession to deliver the Silverman car at the time they questioned you? A I don't know that I did.

Q Have you since gone over the records of your company? A Yes.

Q Do you remember the day that Mr. Corrigan subpoenaed you? A Yes.

Q You did not want to receive a subpoena even?

The Court: Answer it.

A (Not answered.)

Q You were going on a hunting trip, weren't you? A Yes, sir.

Q And Mr. Corrigan subpoenaed you in your automobile? A That is right.

Q He jumped on the running board to subpoena you? A Yes.

Q You were going to Virginia? A I was not on my way to Virginia at that time, but if it had not been for the subpoena I would be there now.

Q And did you object to coming for Mr. Corrigan? A Yes.

Q Saying you wanted to go on your hunting trip? A Yes.

Q And did you have angry words with him about it? A Yes.

Q But you responded to the subpoena? A Yes.

*Re-cross examination* by Mr. Fisch.

Q Was it before or after that occasion when Silverman was to your house at 1 o'clock in the morning?



*Vernon B. Shelter, re-direct—re-cross.*

Mr. McGeehan: When?

Mr. Fisch: The occasion Mr. McGeehan has referred to.

A I believe that the subpoena was served after he was there, I would not make a positive statement as to that.

Q Mr. Silverman had visited your house at 1 o'clock in the morning? A Yes.

Q On a couple of occasions? A No, he was there once the early hours of the morning and once in the evening. Just how late I do not recall.

Q And he was there about this case? A Yes.

Q And when you spoke to Detective Conlon and Bell that was up at the Packard place, wasn't it? A Yes.

Q And you had before you the papers, didn't you? A I can't say that I did, I don't know.

Q You can't say that you did not? A No, I cannot.

Q You may have had them there and you may not, is that it? A I may have had them there, but I don't think the papers were present at that time, I don't remember.

*Re-direct examination* by Mr. McGeehan.

Q You were not anxious to be a witness for either side when you were going hunting, were you? A No, sir.

*Re-cross examination* by Mr. Fisch.

Q Didn't you tell Detective Bell in Detective Conlon's presence that you had attached your signature as a witness to these papers after you came back from Bernardsville? A I told

him that my recollection was very hazy, but as I recalled it at that time I did it after my return from Bernardsville.

Q And Miss Grace Sheridan attached her signature after you attached yours? A Yes, sir.

Q Whom did you go to see at Bernardsville that day? A Forrest F. Dryden.

Q Did you see him? A Yes, sir.

*Re-direct examination* by Mr. McGeehan.

Q President of the Prudential Insurance Company of America?

Mr. Fisch: Ex-president.

Q Ex-president of the Prudential Insurance Company of America? A Yes, sir.

Q You still say you attached your signature on the afternoon the day the car was delivered. Are you sure one way or another what time of the day you attached your signature? A No, I am not positive.

The Court: What was the purpose of attaching your signature?

Witness: I, for one, was supposed to have witnessed Mr. Roma's signature, which I did not do, but I attached it as a witness.

The Court: Did Miss Sheridan witness his signature, if you know?

Witness: She did not.

Q You frequently do that, attach your signature in many cases where cars are sold? A Yes, frequently it is very inconvenient, in many cases, to have it witnessed and notarized.

Recess from 1 to 2 P. M.



AFTER RECESS.

Trial continued pursuant to adjournment.

Present, counsel as before stated.

WALTER TEPLOW, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q How old are you? A Twenty-three.

Q And where do you live? A 111 Montclair avenue, Newark.

Q Montclair avenue, Newark? A Yes.

Q And how long have you lived in Newark? A About eight months.

Q And where did you live before that? A Kearny.

Q How long did you live in Kearny? A Twenty-two years.

Q Do you live with your parents? A Yes.

Q Are you married? A Yes, I am married.

Q And your wife and yourself live with your parents? A Yes, and child.

Q What is your position? A Bellman.

Q What hotel? A St. Francis Hotel.

Q Were you that in July, 1926? A Yes.

Q Do you know the defendant Capozzi sitting there? A Yes, I do.

Q Was he a guest at the hotel you are a bellman at? A Yes.

Q Do you remember his being such guest? A Yes.

Q How long was he a guest at the hotel there? A I would say about three weeks.

Q Do you know when he checked out of the hotel? A No, I don't.

Q And do you know the date he checked out? A Well, it was around the 20th.

Q And you have looked at the records of your hotel, have you? A Yes.

Q Do you know what room—who was stopping at the room he had? A Mr. and Mrs. Roma in room 720.

Q What makes you remember Roma? A Why, I used to go up there quite a lot with ice water, and he used to be a pretty good tipper.

Q And do you know when a man checks out; I mean, do you know when a guest living there leaves? A If I see him I do, yes, but if I don't see him, I could not tell you.

Q Do you remember when his room became vacant? A I could not be exact, but I remember rooming somebody in there, and I knew that he was gone.

Q Did you know he was gone the day he left? A No.

Q I mean did you learn he had left without your seeing him leave? A Well, the reason I knew he left was because I roomed somebody else in the room.

Q Now, were you on duty on the morning of July 19, 1926, on Monday morning? A I could not recall that I was, I worked every day.

Q Well, do you always work the same hours? A No, sir.

Q Are you on every morning or not? A I am on every other morning.

Q Every other morning? A Yes.

Q Have you checked up to see whether you were on on Monday morning, July 19th? A No, I haven't. It is too far back.

Q Have you checked up to see whether you were on duty on the morning of July 20th? A



Well, if I wasn't on the 19th, I was sure on the 20th, if I wasn't on the 20th, I would be on the 19th.

Q But you have not checked up on that? A No.

Q Now, without knowing the exact date that he left the hotel—checked out—and fixing the time by your knowledge that his room was vacant by reason of the fact that you put someone else in there, did you put someone in the same day he left? A No, I think it was the day after, at night.

Q Was it around night? A Yes.

Q Do you remember the day before you put someone in that room being vacant? A No.

Q Well, how would you know it was the day after he left that you put someone in? A Well, I wouldn't say it was the day after or two or three days, but that is how I know when I put somebody in the room.

Q Now, do you remember receiving calls from that room? A Well, he didn't call much.

Q Well you took ice water in there? A Well, anyone is apt to ask for ice water.

Q You can't tell the date he left there? A No, I cannot.

Q Now, do you remember what your last service for him was in connection with him? A I think it was ice water early in the morning.

Q Now, do you remember what the last thing was that you did with respect to anyone coming to his room? A Why, yes, a gentleman asked me what his room was, and I told him 720.

Q You remember that happening? A Yes. I just remember that slightly. I remember it slightly that he asked me where Roma's room was, and I said 720, seventh floor.

Q And is that the last thing you did in connection with Roma? A Yes.

Q And that was even after the last time you brought him ice water? A I brought him ice water before that.

Q Now, when a man asked you what his room number was and you sent him up, what part of the day was that in? A Well, I think it was in the morning.

Q Now, when a man asked you where his room was and you sent him up what part of the day was that? A I think it was in the morning.

Q Now, do you know what date it was that you sent the man up to the room? A I cannot say that I do know.

Q Can you tell us about what time in the morning it was? A I cannot say, the time either.

Q But you remember it was in the morning? A It was in the morning, yes, sir.

Q Now, did you know Max Silverman at that time? A Yes, I knew him to see.

Q Did you know him to talk to at all? A Why, yes, I did.

Q To talk to or say "hello," or what? A Oh, I have already talked to him quite awhile before the last time I seen him in the hotel.

Q Talked about him or talked to him? A Talked to him.

Q Now, is that the man who came to the room? A That is the man who asked me where 720 was.

Q And did you send him up there? A Seventh floor, 720, yes, sir.

*Cross examination* by Mr. Bigelow.

Q Mr. Teplow, how long have you known Max Silverman, either by sight or to speak to-



A How long—well, I should guess about five months.

Q Where have you seen him? A In front of the hotel in an automobile.

Q But not in the hotel? A No, sir.

Q Have you seen him frequently in front of the hotel in an automobile? A No, just one time.

Q And that was about five months before? A I seen him in the hotel that morning.

Q Do you remember seeing him at any time except on those two occasions? Once in the automobile in front of the hotel and once when he asked you where Roma's room was? A Yes, I seen him again sometime, but I don't just remember when I did see him; it is about three times in all that I ever seen him.

Q As I understood your testimony, he did not go upstairs when he asked you for Roma's room? A That I did not go up?

Q Yes. A No, I didn't go up.

Q And I assume you saw him advance to the elevator and go up himself? A Yes, sir, that is when I seen him.

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LOUIS CAPOZZI, one of the defendants, sworn in his own behalf.

*Direct examination* by Mr. McGeehan.

Q Mr. Capozzi, you are the defendant in this case, or one of the defendants in this case, are you not? A Yes, sir.

Q And you were arrested five or six weeks ago charged with this crime that you are being tried on indictment for? A Yes, sir.

Q How old are you? A Twenty-seven.

Q Have you ever been convicted of crime? A Yes, sir.

Q How old were you when you were convicted of crime? A Around nineteen—twenty years old.

Q Nineteen or twenty years old? A Yes, sir.

Q What were you convicted of? A Unlawful entry.

Q In New York? A Yes, sir.

Q And were sent to Elmira Reformatory? A Yes.

Q Have you ever been convicted of any other crime? A No, sir.

Q During 1926 and for sometime prior thereto, what had you been making your livelihood at? A Bootlegging.

Q You were doing bootlegging? A Yes, sir.

Q During 1926 and for sometime before that did you know the defendant Chris Barone? A Yes, sir.

Q Did you know the defendant Big Joe Juliano? A Yes.

Q Did those two men spend considerable time with you? A Yes.

Q They were good friends of yours? A Yes, sir.

Q Did they engage in bootlegging with you? A Yes, sir.

Q Did you ever know Little Joe Juliano? A Slightly.

Q Where had you ever seen him? A Once or three or four times, and I said "Hello" to him up on Drift street, that's all.

Q You never associated with him? A No, sir.

Q To your knowledge did you ever see the witness Boudreau? A No, sir.



Q Did you, in the middle of July, live in the St. Francis Hotel? A I did.

Q When did you go there? A The early part of July.

Q Was it July 3rd? A I think it was.

Q With whom did you go to the hotel? A With a sweetheart of mine.

Q What did you register as? A Mr. John Roma and wife.

Q Was the woman that was with you your wife or not? A No, sir.

Q Are you married or single? A Single.

Q I show you Exhibit D. 5 and ask you whether that is your signature, Mr. and Mrs. J. Roma, indicating that signature? A Yes.

Q When you registered, did you from then on live at that hotel? A I did.

Q You lived in the hotel after that? A Yes.

Q Up to what date? A The 20th of July.

Q On the 20th of July did you move out of that hotel? A Yes.

Q And where did you move to? A 93 Milford avenue.

Q What rooms did you occupy there, what kind of a habitation was that? A Four rooms and bath.

Q Was it an apartment? A Yes.

Q How long before that, approximately, had you engaged that apartment? A Oh, probably eight or ten days before that.

Q And in what name did you engage that apartment? A John Roma and wife.

Q And you went to live there on the 20th? A Yes.

Q Now, to go back to July 3rd, what room did you occupy at the St. Francis Hotel? A 720.

Q Did you receive bills weekly for your board there? A Yes.

Q I show you Exhibit D. 7 for identification, and ask you to look carefully at these slips bearing number 556, addressed to J. Roma. Are those the bills that you were given? A Yes.

Q Did you pay those bills? A Yes.

(Papers offered in evidence and marked Exhibit D. 7.)

Q Now, these bills were paid by you? A Yes.

Q During the time that you lived there, did a woman who entered there as your wife remain there during all of the time? A No.

Q When did she leave? A She left about five or six days to see some friends.

Q Where? A Up to Wilmington, Delaware.

Q When did she return? A I think it was around July, sometime.

Q And what date did she come back from Wilmington? A July 19th.

Q In the afternoon or morning? A In the afternoon.

Q And what time did she return in the afternoon? A It was about fifteen minutes to four, or ten minutes to four; something like that.

Q Did you meet the train, by the way, that day? A Yes.

Q Did you buy a Packard automobile in the month of July? A Yes.

Q Do you know what date you received the delivery of that car? A Yes.

Q What date was that? A July 19th.

Q Do you know what day? What time on July 19th you first saw the Packard car? A It was around 1:40, close to 2:00 o'clock.

Q And where did you see it? A 28 New street.



Q Who brought the car there for you? A Max Silverman.

Q What is at 28 New street? A Restaurant.

Q Whose restaurant it is? A Max's father.

Q Now, do you remember signing certain papers on the 19th of July in connection with that car? A Yes.

Q I show you Exhibit D. 8, a, b and c, and ask you to look at the signature or signatures. Are those your signatures? A Yes.

Q When did you sign your name to the papers in connection with the purchase of the car, what time of the morning? A Between 9:00 and 9:30, something like that; I am not sure; it was sometime in the morning.

Q Now, who came to your room for that purpose? A Max Silverman.

Q Did you sign them for him then? A I did.

Q Were you dressed or undressed? A I was undressed.

Q At the time when he got there, had you been awake or were you sleeping? A I was sleeping.

Q Do you know whether it was a warm day or not? A I do.

Q What was it? A It was a real hot day.

Q And then after you signed these, Mr. Silverman took them away with him? A He did, yes.

Q Did he make any arrangement with you about getting the car? A Yes.

Q Well, how were you to get the car, what was he to do? A He was to call me up and let me know how he made out.

Q And what did you do when he left? A Later on I made a few telephone calls.

Q This was on the 19th of July, is that right? A Yes.

Q Did he phone you sometime during that morning? A He did.

Q And did you phone his place sometime during that morning? A Yes.

Q Do you know what number Market 4000 is? A Yes.

Q What number is it? A Pennsylvania Station, on Market street.

Q Did you phone the Pennsylvania Station that morning? A Yes.

Q What did you telephone them for? A To find out the time the Wilmington, Delaware, train would be in.

Q And do you know what number Mulberry 4895 is? A Yes.

Q Whose number is that? A My girl's mother.

Q Did you phone that place that morning? A Yes.

Q What did you telephone that place for? A I told her her daughter was coming in that afternoon.

Q To tell her her daughter was coming in that afternoon? A Yes, sir.

Q Did you hear from the daughter? A I did, yes, sir.

Q How did you hear from the daughter? A A phone call.

Q Where did you receive that telephone call? A At the Hotel St. Francis.

Q In your room? A Yes, sir.

Q Where did that phone call come from, as far as you know? A Wilmington, Delaware.

Q Did you make the calls that I have asked you about from the room of your hotel? A Yes, sir.



Q Did you make them through the phone operator of the St. Francis Hotel? A Yes, sir.

Q Did you pay for those telephone calls on your bill covering July 19th? A Yes, sir.

Q I show you Exhibit D. 7, the bill with No. 556 at the top, and ask you whether in the column "telephone" there is a thirty-cent charge under date of July 19, 1926?

Mr. Bigelow: I object. I think it is for the jury to determine whether there is a thirty-cent charge.

(Question withdrawn.)

Q Now, were you in your room during all of that morning? A Yes, sir.

Q What time that morning or that noontime or whenever it was, did you leave your hotel? A It was before 2:00 o'clock, around 1:40 or 2:00 o'clock.

Q Did you know that your car was waiting for you at Silverman's place? A I did, yes, sir.

Q What kind of a car was it? A A gray car.

Q And did you drive it that afternoon? A Yes, sir.

Q Did you have the top up or down? A Down.

Q What kind of a head covering did you use in driving that car with the top down? A One of them white tops.

Q What is that? A It is a white top that is down.

Q You mean the car has a white top? A Yes, sir.

Q What kind of a headpiece on your own head did you use? A Oh, a cap.

Q Now, when you met Silverman to get the car at his father's restaurant, did you drive any place with him? A Yes, sir.

Q Where did you drive? A Up to Belleville.

Q Where did you stop in Belleville? A In front of a bank.

Q Do you know what street that bank is on? A It is on the main street in Belleville; I cannot just recall the street.

Q Who else drove with you in the car up to Belleville? A Max, his brother, and Mr. MacFarland.

Q Who is Mr. MacFarland? A Why, he is an agent for Elcar.

Q An agent for Elcar automobiles? A Yes, sir.

Q What kind of a day was this that you were riding? A A real warm day.

Q Was it a bright day? A Yes, sir.

Q Did you have anything to eat at Max Silverman's father's restaurant before you went up there? A I had a cup of coffee and a piece of cake.

Q When you went up to the bank how long was it before you drove back? A I drove back around three o'clock, a little after three; I cannot just recall the hour.

Q And when you got back where did you drop the others off? A Why, I dropped them off in front of the bank; they remained there.

Q Who remained there? A Mr. MacFarland, his brother and another man.

Q Did Silverman drive back with you? A Yes, sir.

Q Did anybody else drive back with you? A No, sir.



Q Are you sure of that? A Positive.

Q Well, did you drop Silverman off anywhere? A I did.

Q Where? A On the corner of Broad and New.

Q Then where did you go from there? A I came over to in front of Childs.

Q Did you drive around with your car? A Yes, sir.

Q Was that a noticeable car or not? A Yes.

Q Was it a new Packard? A Yes, sir, brand new.

Q By the way, were you paying for that Packard in cash or not? A I turned my other Packard in there.

Q You had had a Packard before that, had you? A Yes, sir.

Q What year was that? A 1923.

Q How long before you got the new one did you turn the old one in? A Oh, I turned it in away before; I cannot tell; a couple of weeks before.

Q How much did they allow you on the old Packard? A It was around a thousand and some odd—ten hundred and some odd—I cannot recall the change.

Q Something over a thousand dollars? A Yes, sir.

Q Now, the balance was to be paid how? A By notes.

Q Is there any cash to be paid? A $359 to be paid on the car.

Q The balance are notes? A Yes, sir.

Q You said that you drove around in this car and stopped in front of Childs on Market street? A Yes, sir.

Q That was on Monday afternoon? A Yes, sir.

Q Do you remember who you saw at Childs? A I do.

Q Who did you see at Childs? A Big Joe Juliano.

Q That is the defendant Joseph Juliano in this case? A Yes.

Q Now, while you were at Childs, did you go anywhere with Joseph Juliano? A Yes.

Q Where do you remember going the day you had your new car? A I went over to Heilbroner's at Market and Broad to buy some shirts—Weber & Heilbroner.

Q Well, is that at Market and Broad streets? A That is between Mechanic.

Q Well, at the corner of Mechanic and Broad? A Yes.

Q Weber & Heilbroner? A Yes.

Q What did you do there? A I bought a silk shirt and a tie.

Q Did Joseph Juliano buy anything? A Yes.

Q What did he buy? A He bought, I think it was, two shirts and some underwear and a tie.

Q Now, did you buy those things at Weber & Heilbroner's before or after you went down to the station to meet the girl that was coming back? A Before I went to the station.

Q And where did you go from Weber & Heilbroner's? Tell us your movements. A I went back to Childs and got the car and went down to the station to meet the train.

Q Did you meet the train? A Yes.

Q And did your friend come in on it? A Yes.

Q What is her name? A Dot Miller.



Q Now, after you met her, where did you go then? A I went up to the Hotel St. Francis.

Q How long did you remain there? A Probably three-quarters of an hour or an hour.

Q And then did you leave there? A I did, yes.

Q Do you know what you did the rest of that day? A I do.

Q What did you do? A I went to Milford avenue.

Q Is that where you had taken the apartment? A Yes.

Q Was that the day before you moved in that you were up there? A Yes.

Q What did you do up there? A I measured the floor for some carpet, and from there I went up to Joe Juliano's house and left him off there with his mother.

Q Did you buy any furniture on that day? A A couple of days later I bought some furniture.

Q Where did you buy it? A Up in Schmidt's on Springfield avenue.

Q What did you buy? A A dining room suite.

Q Did you buy it for cash or on credit? A Credit.

Q How much down? A $50.

Q How much a week were you to pay? A $7.50.

Q Did you buy anything else? A Not that day.

Q Did you buy anything else about that time? A Yes, I bought a radio.

Q From where? A Chalmers, on Broad street.

Q These were bought in the name of J. Roma? A Yes.

Q Did you pay cash for the radio? A No.

Q And how were you to pay for that? A On time.

Q The rest of the furniture, who did that belong to? A Miss Miller.

Q Do you know where that had been before it was moved in the apartment? A Yes.

Q Where? A Up in storage, up in Roseville, Roseville avenue.

Q Where did you go—I think you said you left Joe Juliano at his house. Do you know where you ate? A I do.

Q Where? A I ate downtown.

Q And where was the first ride you took with that new car? I mean the first long ride? A Down at Long Branch.

Q When did you go? A Around eleven or twelve o'clock that night.

Q The same night, the 19th? A Yes.

Q Who went with you? A Joe Juliano.

Q Who else? A Chris Barone.

Q Yes. A My girl and I.

Q And where did you go? A Down to the shore.

Q Where? A At the Silver Slipper.

Q Where is that? A Right off Ocean avenue. I cannot recall the name of the block.

Q Is that a very large place? A A very big place.

Q Did you see a lot of people you knew there? A Yes.

Q Did you see some people from Newark? A Yes.

The Court: What was that, a dance hall or cabaret?

Witness: Cabaret.



Q Can you say roughly how many people it accommodates, how big is it about? A Oh, maybe about 150 or 200 people could be in there.

Q By the way, did you go to various cabarets and places to eat nights around New Jersey here? A Yes.

Q And did you go to a place sometimes known as Hilda's up toward Great Notch somewhere? A Yes.

Q What else is that place known as? A The Clifford Lodge.

Q Did you go there a number of times? A Yes.

Q Did you go to other cabarets? A Yes.

Q What other roadhouses or cabarets did you go to? A There is another place up there. I just can't recall the name. I know the fellow who owns it. Frank is his name. The Colonial Inn.

Q Now, when you were arrested in the month of October, last month, where were you, where were you arrested? A At 125 Elizabeth avenue.

Q Where did you move to from Milford avenue? A To 125 Elizabeth avenue.

Q How long did you live at Elizabeth avenue? A Just one night.

Q Just lived there for a night? A And then I got arrested.

Q On Milford avenue, how long did you live there? A Two and a half or three months.

Q You are not sure of the exact length of time? A No.

Q Why did you move from Milford avenue? A Why, I had a little argument in the house, and the janitor ordered me out of the place.

Q Well, you were put out; is that right? A Yes, sir.

Q You were given a notice to move? A Yes, sir.

Q Have you got that notice with you? A Yes.

Q Let's see it.

The Court: Is that material?

Mr. McGeehan: No, of course not, but if the prosecutor wants to—

Q You were put out, were you? A Yes, sir.

Q Then where did you move to? A 125 Elizabeth avenue; that is the block away from there.

Q And you moved there the day that you were arrested? A I moved that night and the next morning I got arrested.

Q Now, when you were arrested, how many men arrested you or who came in the house? A I think it was Gene O'Malley, Luddecke, and I cannot remember the other fellow's name, and there was some other fellows outside.

Q They came into your house, did they? A Yes, sir.

Q Did you have breakfast yet? A No, sir.

Q Did they wait until you had your breakfast? A Yes, sir.

Q Did you go right along with them? A Yes, sir.

Q Were you taken to police headquarters? A Yes.

Q And were you questioned by Captain Brex and the other officers? A Yes, sir.

Q And when you were arrested and taken by Captain Brex and the other officers did he shoot the question at you, "Where were you on July 19th?" A About four hours later he asked me.



Q Up to that time did you know what you were arrested for? A No, sir.

Q Did he ask you any questions about various persons, whether you knew them? A No, sir.

Q Did he ask you where you were on July 19th at some time or other? A Later on he asked me; yes, sir.

Q Did you know out of the air at that time where you were on July 19th? A No, sir.

Q Did you tell him so? A Yes, sir.

Q Did you tell him different places that you might have been? A Yes.

Q Did you know then it was on a Monday? A I know later on; I learned later on it was on a Monday.

Q And did you know then that was the date that you had gotten your new Packard car? A Yes.

Q Did you know when Captain Brex questioned you that that was the day you got your new Packard car? A Oh, no, sir.

Q Have you had it checked up since? A Oh, yes.

Q Have you told where you were around that time? A Yes, sir.

Q Did you tell Mr. Corrigan that you had gotten your new Packard car around that time?

Mr. Bigelow: I object.

Mr. McGeehan: Withdrawn.

Q Now, Capozzi, did you ever in your life go out with or have anything to do with Boudreau whom you saw here in court and on the stand? A No, sir.

Q Were you ever in his company? A No, sir.

*Louis Capozzi, direct.*

Q Did you ever see him before July 19th? A No, sir.

Q Did you ever see him on July 19th? A No, sir.

Q Did you ever see him after at any time in police headquarters? A I seen him at police headquarters the first time I ever seen him in my life.

Q Are you pretty well known in Newark? A Yes, sir.

Q Do a lot of policemen know you to talk to? A Yes, sir.

Q Do you know a lot of people around the four corners? A Yes, sir, I do.

Q Did you hang out with Joe Juliano and Chris Barone a great deal? A Yes, sir.

Q Where did you hang out as a rule? A As a rule downtown around Childs and 18 Treat Place.

Q Childs and 18 Treat Place? A That's all.

Q Did you ever see that man down there at all (indicating Boudreau)? A No, sir.

Q Did you ever see young Joe Juliano hang out around 18 Treat Place? A No, sir.

Q Capozzi, did you on the 19th of July or at any time go with the witness Boudreau and the other defendants in this case to or near the Reid Ice Cream Company? A No, sir.

Q Did you hold-up the Reid Ice Cream Company or have anything to do with the killing of the man who worked for it, who was killed there? A No, sir.

Q Did you have any connection whatever with any hold-ups in that place? A No, sir.

Q When did you learn, do you remember, or hear about the Reid place being held-up? A Yes.



*Louis Capozzi, cross.*

Q When did you hear? A The same day.

Q Where were you? A 28 New street.

Q Were you meeting Silverman and getting your car? A Yes.

Q And were there others there? A Yes, there were people talking about it.

Q People talking about that crime? A Yes, sir.

Q You saw it also later in the papers? A Yes, sir.

*Cross examination* by Mr. Bigelow.

Q Capozzi, that crime for which you were convicted, that was actually burglary in the third degree, wasn't it? A Unlawful entry I was arrested for.

Q Wasn't it feloniously and burglariously breaking and entering with intent to commit some crime, to wit, with intent to take chattels, and personal property of Elizabeth Cheseborough then in the said building to steal, take and carry away? A I was convicted of the crime of unlawful entering.

Q You are a man of many names, are you not, Mr. Capozzi? A Just two names.

Q Well, you have been known as James Ruff, have you not? A Not James Ruff, John Roma.

Q Well, were you known as James Romaine? A John Roma.

Q And haven't you also been known as James Romaine? A No, sir.

Q Have you ever been known as Joseph Grecco? A No, sir.

Q Are you sure of that? A Not that I can recall.

Q You cannot recall that? A No, sir.

Q Were you ever known as Louis Burn? A Burn?

Q Yes, or Burno? A No, sir.

Q Or Joseph Ricco? A Joseph Ricco?

Q Yes. A I can't recall, I don't remember.

Q Do you recall being known as Miller? A Miller?

Q Miller—M-i-l-l-e-r? A No, sir.

Q What is your real name? A Capozzi, Louis Capozzi.

Q And you have been known not as James Ruff, but as Kid Ruff? A That is a nickname, they called me Ruff.

Q Now, you were living on Elizabeth avenue or Milford avenue at the time of your arrest? A On Elizabeth avenue.

Q And had been living there one day? A Yes, sir.

Q And before that you had been living in this apartment on Milford avenue since July 20th, is that right? A Yes, sir.

Q And before that you had been at the St. Francis since about July 3rd? A Yes, sir.

Q Did you live at the Hotel Riveria before that? A Yes, sir.

Q How long were you there? A Oh, I lived there about eight, nine months, something like that, I can't just recall the time.

Q Until you moved to the St. Francis? A The St. Francis.

Q Did you live at the Riveria until you moved to the St. Francis? A Yes, sir.

Q Now, while you were living at the St. Francis, were you in Newark all the time? A Well, sometimes I used to go down to the shore for the week-end.



Q Just for the week-end? A Yes.

Q You were not in Chicago during that period? A During that time I was living at the St. Francis?

Q Yes. A No.

Q But you were down at the shore for one or more week-ends? A Probably one, because I didn't have my car. I borrowed a car one week I was at the Hotel St. Francis and I went down to the shore.

Q Is that after you turned in your old Packard to the Packard Company? A Yes.

Q And before you got your new car? A Yes.

Q When did you turn your car in? A When I went to Chicago, I turned my old car in.

Q That was about when? A I can't just recall, two or three weeks before.

Q I don't want you to tell anything that you are not sure of. Was it several weeks before? A I cannot remember just when it was.

Q Well, one week you borrowed a car and went down to the shore for a week-end? A Yes.

Q And you only borrowed a car on one occasion to go to the shore? A Yes.

Q Where did you stay down at the shore? A At the Shrewsbury Country Club.

Q How long were you there? A I was there until Sunday night.

Q From when? A Saturday night.

Q Then you came back to Newark? A Yes.

Q Now, after you moved from Milford avenue, did you spend any week-ends at the shore? A When I moved from Milford avenue?

Q After you moved to Milford avenue? A Yes, I did.

Q Every week-end? A I would not say every week-end. I was down there most week-ends.

Q Did you just go down for Saturdays and Sundays? A Yes.

Q And at the time you went down to the Silver Slipper, you got there, I think, about 2 o'clock on the morning of the 20th, is that what you testified to? A Yes.

Q How long did you stay down there on that occasion? A Until the next day around 1 o'clock, 1:30, and left to come to Newark.

Q You started back about 1:30? A About 1 o'clock or 1:30.

Q In the afternoon? A Yes.

Q And came back to Newark? A Yes.

Q Now, during all the time that you were at the Milford avenue apartment, was Miss Miller staying with you? A Sir?

Q During all the time that you were at the Milford avenue apartment was Miss Miller staying with you? A Yes.

Q Did she move with you to Elizabeth avenue? A Yes.

Q And was she with you all the time you were at the St. Francis excepting during her trip to Wilmington? A Yes.

Q When did she go to Wilmington? A She went away in July, sometime, around—I think it was the second week in July, if I ain't mistaken.

Q Well, assuming she came back on the 19th of July. A Yes.

Q How long had she been away? A Five or six days.

Q So she left on the 13th or 14th to go down there? A I cannot remember just when she



left, but she came back on the 19th of July. She was there five or six days.

Q And she had been with you at the St. Francis until she left to go to Wilmington? A Yes.

Q Now, when did you receive the telephone call at the St. Francis Hotel from Wilmington saying that she was coming back, or whatever that message was? A On July 19th.

Q About what hour? A Well, I can't recall the time. I know it was around noon sometime.

Q It was after Mr. Silverman came and waked you? A Yes.

Q And after you had gotten up? A Why, I remained in bed. I was in bed when I got the call.

Q You were in bed when you got the call from Wilmington? A Yes.

Q And did you get up immediately? A No.

Q You stayed in bed for a while longer? A I just stayed in bed for a while.

Q Did you go to sleep again? A No, I didn't. I just laid there reading the paper.

Q The morning paper? A Yes, the morning paper.

Q You had not been out to get the morning paper? A No, I bought it that morning when I went to bed on the 18th.

Q You bought the paper dated July 19th when you went to bed? A Yes. I bought a News.

Q When you went to bed on the 18th? A I bought a News.

Q Daily News? A Yes.

Q And you were lying in bed after receiving the 'phone call reading the Daily News? A Yes.

Q And how long did you continue there? A I was waiting for Max Silverman to give me a 'phone call.

Q So you got the 'phone call, from Wilmington, before you got the 'phone call from Max Silverman? A No, I got a 'phone call from Max Silverman before I got the 'phone call from Wilmington, Delaware.

Q You got the 'phone call—I think you said you telephoned two people or more than two? A Yes.

Q Did you telephone them before or after you received the Wilmington call? A Before.

Q And did you telephone those people before or after you received a call from Max Silverman? A I made three calls that day.

Q Now, these calls, 4000 Market and 4895 Market, were before or after receiving the 'phone call from Mr. Silverman? A I made two calls before I received Max Silverman's call.

Q Well, did you make these two calls before you received the Wilmington, Delaware, call? A The only two calls I made I made a call to the Pennsylvania station.

Q Now, I am asking you about these two calls. Did you make a call to Market 4895 and to Market 4000 before or after you received the 'phone call from Max Silverman? A Max Silverman called me up first. I made those calls later on, around noon sometime. All those calls I made around noon time, sometime.

Q Let's fix these two. A I don't know what two you mean.

Q I mean Market 4895? A Somewhere around noon, I made that call.

Q Who is the call to Market 4895? A Mulberry 4895.



Q Who is Mulberry 4895? A The girl's mother, Miss Miller.

Q Am I wrong that the other call is Market 4000 or Mulberry? A Market 4000.

Q And you sent out both of those calls after hearing from Mr. Silverman? A Yes.

Q What was the third call you made? A I can't just recall what call you mean.

Q You said a moment ago you made three calls. A I made a few calls that morning.

Q Well, why did you say three? A I also called Max Silverman's restaurant, Mitchell 5885.

Q You called that number that morning? A Yes.

Q About what hour did you call that? A Right after Max went out of the hotel, a little later on.

Q How much later on? A I cannot just recall. It was all around the morning sometime.

Q Two hours after he left the hotel? A No, it was not that long, it was round the morning sometime.

Q Well, you can pin down these other two calls more definitely, can't you pin down the Mitchell 5885 call? A Why, it was sometime in the morning. I cannot remember the exact time.

Q Is your memory any more exact as to the other calls than it is of this call? A Well, I cannot say the exact time on the other calls either.

Q You think the other calls were around noon? A Around noon time, yes.

Q And it might have been 4 o'clock? A No, it was before that. I just cannot remember.

Q When did you leave the hotel that day? A Around 2 o'clock.

Q And you made these calls before you left? A Yes.

Q Did you call anybody else that morning? A No, sir.

Q Just those three? A Not that I can remember.

Q You don't know what time during the morning you made these calls? A No, sir.

Q Do you think that two of them was around noon? A It was around noon some time.

Q When you telephoned the Pennsylvania, what department of the Pennsylvania did you speak to? A I did not call the Pennsylvania, prosecutor. That is what you just asked me.

Q You did not call the Pennsylvania? A You asked me what part of Pennsylvania I called.

The Court: No, what part of the Pennsylvania?

Q What part of the railroad, what department in the station did you call? A I don't know, I know I got the station on the 'phone, I know that and they connected me with some office, I don't know what it is, I got the ticket office, I guess, but I am not sure.

Q And what was the subject of the conversation? A I just asked what time is the Wilmington, Delaware, due and they told me.

Q You asked them what? A What time was the Wilmington, Delaware, due at the station.

Q Did you give them any more information? A No, sir.

Q What did they tell you? A They told me it was due around 4 o'clock, before four some-



time, I cannot remember just what time it was they told me, I know it was before four because I got there around five minutes to four or ten minutes to four and the train was due then.

Q Let me get this right. You picked up the receiver and you got the Pennsylvania? A Yes, sir.

Q And you said words something like this, "Let me know when the Wilmington, Delaware, train is going to arrive"? A I said, "Will you please tell me what time is the Wilmington, Delaware, train coming in," and he told me there was one due in there before 4 o'clock, I cannot just recall the exact time he told me.

Q Did he tell you about any other train from Wilmington, Delaware? A No, I just asked him and he told me there is one due around 4 o'clock.

Q And he told you there was one due around 4 o'clock? A Around 4 o'clock.

Q Did you ask him whether it was late or not? A I did not.

Q And he did not volunteer any information on that subject? A Why, certainly not.

Q What time did you get to the railroad station? A Oh, it was around a quarter to four, twenty minutes to four, something like that.

Q And you waited there for the train to come in? A Yes, sir.

Q And did Miss Miller arrive on the train? A Yes, sir.

Q Did you see her get off the train? A Yes, sir.

Q What part of the train did she get off? A On Market street.

Q I say what part of the train did she get off? A She got off on the station.

Q Did she get off the back of the train or the front of the train or the middle of the train? A She got off away in the back.

Q Away in the back towards Mechanic street or beyond? A I don't know which street.

Q Which platform is this? A This is on the opposite side of Market street, on the right-hand side.

Q Do you remember what kind of a car she got off? A No, sir.

Q You don't remember whether it was a day coach or a sleeper or anything like that? A I don't remember.

Q Who was with you then? A Joe Juliano.

Q The defendant Big Joe? A Yes, sir.

Q And your new Packard was waiting for you at that time? A Yes, sir, right by the station.

Q Whereabouts? A Right down the side, in the parking space right there in front of the station.

Q On the Market street side? A Right alongside of the station, not on Market street, as you drive inside you turn around the space on that side of the street (indicating).

Q On the side of the street towards Broad street? A Just as you go down Market street there is a little block and you turn and there is an express company and you turn and you park right by the station.

Q Well, that is on the side towards Broad street? A Yes, towards Broad street.

Q You probably remember that on that side of the station within a hundred feet or so away there is a little street with a United Cigar store on the corner there, do you remember that? A I did not take notice.



Q Do you remember whether you left your car standing on that street or inside where the taxicabs generally stand? A Right alongside of the taxicabs, where they run, right alongside there, and here is the car parked right here (indicating).

Q And your flashing, new Packard was right there in the sunshine? A Yes, sir.

Q And then you went up and met Miss Miller and came back? A Yes, sir.

Q Then where did you and Miss Miller and Mr. Juliano go? A To the Hotel St. Francis.

Q You drove directly back there? A Yes, sir.

Q Did all of you three go in there? A Yes, sir.

Q How long did you remain there? A Oh, around an hour or so, I cannot remember the exact time.

Q Did you have supper? A Not right then, no, sir.

Q Did you go up to your room? A Yes, sir.

Q Did you telephone anybody? A I cannot recall or remember, if I did or not.

Q Don't you remember whether Miss Miller telephoned to her mother? A I wouldn't say yes or no; I am not sure.

Q Did the three of you leave together? A Leave together, yes, sir.

Q Where did you go then? A We went to Milford avenue.

Q Did Big Joe go along? A Yes, sir.

Q How long did you stay there? A Oh, just a short time; I cannot just recall the time I was there, just to measure the floor and go over and get some carpet for the floor.

Q And did you drive Big Joe back to his home? A Yes.

Q Where is his home? A Up on 8th avenue.

Q And did you get out of the car then? A No, sir, I left him there.

Q And you drove back then to Milford avenue? A No, sir; we went downtown and just hung around downtown for awhile.

Q Did you take Miss Miller along when you went up to Big Joe's that time? A Yes, sir.

Q You brought her back there when you came downtown? A Yes, sir.

Q Do you remember where you ate? A I cannot recall the restaurant, maybe it was in Childs' or Perri's on Halsey street; I cannot just recall where it was.

Q Did you and Miss Miller eat together? A Yes, sir.

Q Then where did you go? A Well, I hanged around for a while and then that night—

Q Where did you hang around for awhile? A I was in front of Childs' for awhile.

Q Was Miss Miller with you? A Yes, sir.

Q How long did you hang around there? A Just for awhile, and then we went to a show.

Q What show? A I went to Miner's—I mean the Branford.

Q Do you recall the picture that you saw? A No, sir; I do not; I cannot remember. I used to go in there quite often.

Q Well, your memory is so good I thought you might be able to remember the picture? A I do not recall the picture.

Q Did Miss Miller go to the show with you? A Yes, sir.

Q And was it after that you went to Long Branch? A That night I went to Long Branch, yes, sir.



Q Immediately after the show? A It was around 11:00 or 12:00 o'clock.

Q Where did you go after the show and the time you went to Long Branch? A Where did I go?

Q Yes. A Why, I came out of the show and picked Joe Juliano up, and Chris Barone, and then went to Long Branch.

Q Did you pick them up right away? A I went around Washington street and then around in front of Childs', and I picked them up, and then went to Long Branch.

Q Did you have an engagement to go to Long Branch with them? A I didn't have no engagement; I just ran into them and said I am going to go, and they should come on for a ride.

Q You ran right into them? A Yes, sir.

Q Right on Market street? A Yes, sir.

Q You had no engagement? A No, sir.

Q Why did you go looking for them on Washington street? A I wasn't looking for them.

Q And where did you park your car while you were in the show? A I parked it on Market street in front of Childs'.

Q You left it there from the time you went in to get a bite at Childs' or Perri's and then went to the show? A I used to park it there all the time.

Q Then you walked, I take it, from the show around from Washington street to Childs' and got your car again? A I walked around and got in the car and drove to Washington street and then I went up in front of Childs'.

Q You did not see them when you got there? A No, sir.

Q Was Miss Miller with you? A Yes, sir.

Q She had been with you right along? A Yes, sir.

Q And you drove down to Long Branch to the Silver Slipper? A Yes, sir.

Q Now, the day before this day, that is Sunday, the 18th, were you in Newark? A I was; yes, sir.

Q What time did you get up that day? A Oh, in the afternoon, some time; I cannot just recall the time.

Q Did you have any meal in your room or anything of that sort? A No, I never ate in my room, no, sir, only in the morning I used to get some coffee or something, maybe once or twice, send the boy out for some coffee.

Q On that day you did not? A No, sir.

Q You got up sometime in the afternoon? A Yes, sir.

Q What did you do after you got up? A I was around there for awhile and then I went to Treat Place and then went to Jersey City to see some friends of mine.

Q Did you see anybody you knew here in Newark? A No, sir.

Q None of your gang was there that night? A I just seen a few fellows around there, friends of mine.

Q Did you see Big Joe? A No, sir.

Q You went to Jersey City, did you? A Yes.

Q At what hour? A That afternoon I took a ride over to see my brother.

Q What time did you come back? A Oh, it was around late at night. I do not know; around 6:00 or 7:00 o'clock.

Q In the evening? A Yes.

Q And then did you go to a show? A I cannot remember. I do not know whether I did or not. I cannot say for sure.



Q And if you did go, you do not know what show it was? A If I did go, it would be the moving picture house, the Branford, or one of those places.

Q Did you go out of town that evening? A On that evening, no.

Q Where did you stay that evening? Think it over carefully and tell me where you stayed. A I didn't hear what you said.

Q Where did you you stay that evening? A What evening?

Q Sunday evening, July 18th. A At the Hotel St. Francis.

Q You spent the evening in the hotel? A July 18th, yes. Not to spend the evening. You asked me where I stayed.

Q I asked you where you spent the evening. A Up around Treat Place or in front of Childs'.

Q Just standing around leaning up against Childs' or on Treat Place? A I used to play cards.

Q You do not play cards at Childs'? A 18 Treat Place.

Q Whose place is 18 Treat Place? A Klein's.

Q How late did you stay there? A Around 1:00 o'clock.

Q Then did you go directly back to your hotel? A No. I stood around Childs' awhile and then I went back to my hotel at 3:00 or 4:00 o'clock that morning.

Q Did you see anybody you knew that evening? A I seen a lot of friends of mine.

Q But you did not see any of these other defendants? A No.

Q When did you first go to see Mr. Shelters about this Packard car? A I went up there on several occasions.

*Louis Capozzi, cross.*

Q Yes, but when did you first go? A Oh, it was two or three weeks before I got my car. I was up there on a Thursday and he told me my car would be ready on Saturday.

Q You first saw him on Thursday?

Mr. McGeehan: I object. He didn't say that.

Q Did you make just those two—did you see Mr. Shelters just those two times? A I seen him every time I went to the Packard people. I went there on several occasions.

Q Between the time a couple of weeks before and Thursday? A I went up there that Thursday and a couple of weeks before I went up with Max to get his car.

Q Had you seen Mr Shelters between the Thursday and a week or ten days before that? A Before that?

Q Yes. A I think I did, before Thursday. I went up there two or three times before Thursday.

Q Did you see him that same week, that Thursday? A Up to Thursday I seen him, and that was the last time I seen Mr. Shelters.

Q Yes. I understand you saw him on Thursday, and I want to know whether you saw him Monday, Tuesday or Wednesday before that Thursday? A Well, I would not say for sure, Mr. Prosecutor, because I used to be up there quite often.

Q You do not know anything about it? A No.

Q Well, did you see him Friday? A No.

Q Did you go to the Packard place Friday? A No.

Q Or Saturday? A No.



*Louis Capozzi, cross.*

Q Or Sunday? A No.

Q On Monday? A Monday; no, sir.

Q Now, you did go to his residence some ten days later to pay $459? A I did, yes.

Q Where was his residence? A Across from the park, right off Elizabeth avenue; that park on Elizabeth avenue.

Q Is it on Elizabeth avenue? A No; it is right across from Elizabeth avenue from the park. I cannot recall the name of the street.

Q Well, Elizabeth avenue is on the west side of the park by crossing the park, do you mean on the east? A He is three houses away from the park.

Q On Frelinghuysen avenue? A It is a block in from Frelinghuysen avenue. I cannot recall the street.

Q That street that used to run into Frelinghuysen avenue diagonally, which used to have trolley tracks on it? A I can't just tell you.

Q How did you take it? A I paid his missus $360.

Q Did you give her a check? A No, cash money.

The Court: What date was that?

Witness: It was on August 4th, your Honor.

Q Now, when you went to 28 New street, I take it, it was to Silverman's, about 2:00 o'clock Monday, July 19th, who did you find there? A Max Silverman, his brother and another brother of his and Mr. McFarland.

Q Max Silverman and two brothers? A There was a brother working in the restaurant and another brother there and Max himself.

Q Just the two Silvermans? A I don't know the other fellow's name; Navy, and Max and McFarland.

Q Who is McFarland? A He is an agent for Elcar.

Q Did you know him before this time? A Yes.

Q And you took them up to Belleville to the Peoples Bank? A Yes.

Q Did you have business in the bank? A They wanted to go there on some business.

Q You did not have any kind of business with the bank that morning? A No.

Q So you drove down and let Max out in front of the corner of New street? A New street and Broad.

Q Where did you let the others out? A I left them out in front of the bank.

Q In Belleville? A Yes.

Q Do you know Tony Di Phillips? A No.

Mr. Bigelow: Is Mr. Di Phillips here? (Man in the audience rises.)

Q You do not think you know Mr. Di Phillips, this gentleman here? A No.

Q You never saw him before? A I have seen him around, but I do not know him to speak to.

Q Do you know Pete Rugerio? A No.

Mr. Bigelow: Is Mr. Rugerio here?

Q You don't know this gentleman? A No, sir; never met him in my life.

Q You do not know him by the name of Rogers? A No.





Mr. Bigelow: Take off your glasses (addressing Rugerio).

A No, I never met him in my life.

Q Do you know him by sight? A No, sir; I never met him in all my life.

Q Now, at your apartment on Elizabeth avenue, during the summer—I mean Milford avenue—didn't little Joe visit you very frequently? A Little Joe Juliano?

Q Yes. A No.

Q How many times did he visit you there? A He never visited me there in all of his life. I do not know the man. Once in a while he used to say "Hello" to me because of being with his cousin, Joe Juliano.

Q You know who I am referring to? A Little Joe Juliano. He was never in my house in his life.

Q Wasn't he there the 28th of August? A No.

Q Or the 29th? A No.

Q Didn't Mr. Boudreau call upon you at your apartment? A No, not at my apartment, never.

Q Where was your apartment? A On the first floor.

Q Is there two families on a floor or just one? A There is about four or five. It is about four or five stories.

Q How many on the first floor? A Four or five. I am not sure.

Q And where on the first floor was your apartment? A Front, on the Milford avenue side.

Q Is that the only one that fronts on Milford avenue? A No, there was one right alongside of me, and then there is back apartments.

Q Well, looking at Milford avenue, are you on the left or right? A I am on the left.

Q The first floor? A The first floor.

Q Milford avenue side? A Yes.

The Court: On the morning of the 19th where did you have your breakfast?

Witness: I had a cup of coffee and a piece of cake over in Max Silverman's father's restaurant.

The Court: What time?

Witness: I think it was around just before two o'clock when I got there.

The Court: You had not eaten anything before that?

Witness: No.

Q The car was standing in front of the restaurant when you reached there? A Yes.

*Re-direct examination* by Mr. McGeehan.

Q When you say you lived on the first floor, you mean you lived near the ground? A No, the first floor.

*Re-cross examination* by Mr. Bigelow.

Q There were not any apartments under you except the apartment of the janitor? A Oh, there was people under me. I do not know whether it was the janitor.

Q Is that a regular apartment? A That is right on the bottom floor. As soon as you walk into the hall there is some apartments there; there is four or five apartments down there.

Q And on a level with the ground? A Well, you go up five or six steps.



Q The apartment under you is five or six steps up from the ground? A About that.

Q And then you are one flight up? A Yes.

Q Did you ever live in Bergen county? A No, sir.

Juror No. 5: I would like to compare the conditional bill of sale with the checking list signature.

(The papers are handed to the juror.)

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THOMAS J. OSBORNE, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Osborne, where do you live, please? A 26 Brookdale avenue, Newark.

Q How long have you lived in Newark? A About five or six years.

Q Are you married? A Yes.

Q How many children? A One.

Q And you live with your family at 26 Brookdale avenue? A Yes, sir.

Q By whom are you employed? A The Pittsburgh Plate Glass Company.

Q What position have you with the Pittsburgh Plate Glass Company? A City salesman.

Q For the city of Newark? A Yes, sir.

Q How long have you worked for them? A Close to four years.

Q Now, were you in the vicinity of Clay street and Mt. Pleasant avenue on the day of the hold-up at the Reid Company? A I was.

Q What were you doing in that vicinity? A I had two places to go to that morning; one was

in North Newark, to the Spring Sash and Door Company, and the other was in North Arlington at Ridge Road and Belleville Turnpike. I was going along, intending to go to North Arlington, and turned down Clay street from Broad, and as I got about ten feet past that first street, which I notice on the map is Spring street here, I heard a shot and saw the thing start.

Q What street did you say? A This little street here (indicating).

Q Spring street? A Yes, sir.

Q You heard what when you got there? A As I got about ten feet past that corner I heard a shot and looked over in this direction, the direction of the Reid Ice Cream Company.

Q That is where you heard the shots come from? A Yes, sir.

Q How many shots did you hear altogether from then on? A Two following that.

Q And later did you hear more shots? A Yes, sir.

Q Now, Mr. Osborne, did you look at this scene from your car or from afoot? A From the car.

Q Where did you stop your car? Will you point on the map—do you understand this map here, (indicating Exhibit S. 1)? A Yes, sir.

Q Will you just point on the map to about where you stopped? A Where I was at the time? Here is where I was when I heard the first shot, about here (indicating a point at Spring street and Clay street).

Witness: That is when I heard the shot, but I was ten feet beyond that corner.

Q Now, will you take the pointer and show the jury where you were when you stopped your car? A I did not stop the car, Mr. McGeehan.



Q What did you do after you heard the shot, what did you do? A After I heard the first shot I saw this Mr. Condit fall and as he fell there was another shot fired, and I turned towards Mt. Pleasant avenue then.

Q What did you intend to do? A I intended to go over there to see what had happened. My first impression was, when the first shot was fired, as he fell, that he was squeezed between the two cars, and then I heard a second shot coming and I immediately knew something funny was going on, and as I was crossing the street just about where the entrance to Mt. Pleasant avenue was, another shot was fired, and I suppose I was within a hundred feet at that time.

Q You kept going towards the scene of this hold-up? A I did, yes, sir.

Q And did the other car get away before you got up to it? A Oh, yes.

Q It happened as quickly as all that? A Why, the whole thing did not last about two minutes, as I can recall.

Q You mean two minutes by the clock or figuratively speaking? A In my judgment about two minutes.

Q What did you do when you saw that car drive away? A I went right after it.

Q Did you chase that car? A I went as far as Belleville avenue and Gouveneur street.

Q Did it get away from you? A I did not see it when I got up there; I saw it go around the corner and by the time I got to Belleville and Fourth, or Belleville and Gouveneur street it turned and I turned and I went with the car tracks—

Q Did it make the first turn to the left? A Yes.

Q And at the time you were pursuing that car was anyone else pursuing it? A Not that I saw.

Q And then after that did you come back to the Reid plant? A Yes.

Q What did you do or what did you see? A Coming down the street, as I got to the scene, I saw a grayish sedan, and they were putting Mr. Condit in it and I called out to no one in particular if anyone had the number. I had it in my head and I had no time to mark it down yet, and a little boy pulled a paper out of his pocket and said it is D1926, and it checked with what I had seen.

Q And it was that number? A Yes, sir.

Q And did you see anyone else? A Then I went down to the corner of Clay street and Broad.

Q Who did you see there? A There was a traffic cop there, but there was no police around there.

Q Did you speak to him? A Yes, and there was another man standing on the corner, a man whom I later found out was a Mr. Moore.

Q He was formerly chief of the Fire Department? A Yes.

Q He had just lately been elected to Congress? A Yes, I think so, and Mr. Moore turned to the cop and told him I wanted him; then I said there was a man killed around the corner; that there was a hold-up, and Mr. Moore took me to the police.

Q Did you call the police? A He did, but he called the police. I gave him the description I had and he called the police and I took him up to Belleville avenue. Mr. Moore told me that he wanted to go around to the Reid place, but I said no, I will go up this way, we might see



them, and I went up Belleville avenue and just as I got to the Normal School he got out.

Q Now, Mr. Osborne, going back to the time that you were on Clay street when you first saw, and heard the first shot as you got to Spring street—you intended to cross Mt. Pleasant avenue? A Yes, sir.

Q And when you got opposite Mt. Pleasant avenue it was then that you got your first view of the activities in front of the Reid place? A No; I was ten feet from Spring street; I just passed Spring street when I saw it.

Q And the distance between Spring street and Mt. Pleasant avenue is about what? It is about 100 feet from Spring street to Mt. Pleasant avenue, isn't it? A Approximately, yes, sir.

Q And you were passing Spring street when you heard the first shot? A I just passed the corner.

Q And then you got to the point where you would get a view up Mt. Pleasant avenue? A That's right.

Mr. Bigelow: No, Mr. McGeehan, he said he had it when he was about ten feet past Spring street.

Q I say when you got to a point whether it was 10 feet or 400 feet, you got to a point past Spring street when you got a view up Mt. Pleasant avenue?

Mr. Bigelow: I object to Mr. McGeehan leading the witness.

Mr. McGeehan: The question is withdrawn.

Q Well, in your car, will you tell us where you were when you got a view up Mt. Pleasant

avenue? A When I heard the first shot it attracted my attention that way and I looked up and I saw Mr. Condit fall.

Q Was your car moving as you heard the shot? A Absolutely.

Q Did you mean to say that you could see up Mt. Pleasant avenue from a point only ten feet from Spring stree? A Well, not more than fifteen.

Q That is your judgment? A I had just passed the corner.

Q But you did look up Mt. Pleasant avenue? A Yes, sir.

Q And when you looked up Mt. Pleasant avenue did you see Mr. Condit fall? A I did; yes, sir.

Q Did you see any other men around—how many cars were there? A Two standing in front of the Reid Ice Cream Company.

Q In front of the office part of it? A Yes, sir.

Q Did you see the other men around those two cars? A One man was in between those two cars after Mr. Condit fell; I saw one man in between standing up.

Q And I suppose there were two cars there, you said? A Yes, sir.

Q What were they? A One was a coupe and the other a big sedan.

Q Now, with reference to the space between those two cars, how many men did you see in addition to Mr. Condit? A One.

Q You saw only one? A Yes, sir.

Q Were you moving towards them at that time? A I was.

Q How close did you get to where they were before the big car moved off? A I should say about eighty feet—something like that.



Q Were you up into Mt. Pleasant avenue then? A I was into Mt. Pleasant avenue.

Q Now, when you pursued that car could you tell whether or not it started from there slow or fast? A I never saw a car get away so fast before.

Q And when they had reached a point three or four hundred feet from the Reid Ice Cream Company can you estimate how many miles an hour it was going? A I would say approximately thirty-five.

Q Now, could you catch it? A No, sir.

Q What kind of a car were you driving? A A Dodge.

Q Now, the man that you saw, did you get a pretty good look at him? A Well, the way I saw I was looking side face as he reached into the small car.

Q You saw him reach into the small car? A Yes, and then as he turned around the big car started to move and he threw something into the big car, and while he just about put his right foot on the running board of the big car he looked down at Mr. Condit.

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

Q Did you get a pretty good look at that man? A Fairly so.

Q What was his complexion, light or dark? A Well, it was light.

Q You have seen these defendants in court here, have you? A Yes, sir.

Q In your opinion are any of the men in here the men that you saw?

Mr. Bigelow: I object, your Honor.

The Court: The opinion is objected to.

Q Did you see any of these defendants there? A No.

Q Are you sure that the man you saw was not one of the defendants? A I am, yes.

Q Mr. Osborne, did you see a picture of the defendants in the paper? A Yes.

Q And do you remember what paper you saw it in? A In the Call.

Q Did you look at that paper carefully? A I did, yes.

Q I show you Exhibit D. 2 for identification. Did you see the upper picture? A I did, yes.

Q After you looked at that picture and when you looked at that picture, did you make up your mind whether or not any of these men were the men you saw?

Mr. Bigelow: I object.

The Court: Sustained.

*Cross examination* by Mr. Bigelow.

Q You were in a Dodge that day? A Yes.

Q What kind? A Coupe.

Q And were you on your way from the Pittsburgh Plate Glass Company's place? A Yes.

Q That is down at the Lehigh Valley Railroad? A Elizabeth avenue.

Q And before entering Clay street, had you been going north on Broad? A I was going to North Arlington.

Q Yes; before turning into Clay street, had you been going north on Broad street? A Yes.

Q And on Clay were you running on the car tracks? A On the car tracks.

Q And had reached a point about ten feet, which would be one inch on this map, east of



Spring street when you heard and first saw the scene of the trouble? A Yes.

Q There is no building, as I understand it, at this northwest corner? A No.

Q So you could look clear from there up to the plant? A Yes.

Q Does this photograph, Exhibit S. 6, show the approximate scene? A Well, no. I was more of an angle.

Q You were to the left of this photograph? A Yes.

Q And how far did you continue along on the car tracks before you turned off? A I would say opposite where that photograph was taken, when I could turn into the street, and I made a short turn into the left.

Q That would be a point, I take it, about opposite a continuation of the westerly line of Mt. Pleasant avenue? A Yes.

Q And had you heard the other two shots before that time? A Well, the second shot was fired just about as I was going to turn.

Q Just about as you were going to turn? A Yes.

Q And before you actually did turn? A Yes.

Q Now, was there a third shot fired? A Yes, just as I entered the street the third shot was fired, and the car started to move away.

Q Just as you entered Mt. Pleasant avenue the third shot sounded? A Yes.

Q And the Pierce-Arrow started to move away? A Right after that third shot.

Q It started at the same time the shot was fired, didn't it? A Well, I could not say.

Q Well, you saw it and I didn't. I am asking you didn't the shots sound simultaneously with the starting of the car? A No, I wouldn't

say that. They started to move just after the shot was fired.

Q And the man got on the car? A As it was moving.

Q And did he—I think you said the quickest getaway you have ever seen. A Positively.

Q By that you mean it started with a leap? A Very bad. I had gone probably fifty feet when they reached the corner.

Q Is this point, we will say about the lower part of letter M, of Mt. Pleasant avenue, shown on Exhibit S. 1, about the point where you were when you heard the last shot? A That is about it.

Q And the car started to move immediately? A Yes.

Q That point is approximately 170 feet, is it not, from where the green car was standing? A It did not seem so to me; it does not seem that far from the corner.

Q No, you said a moment ago that something happened by the time you had gone fifty feet. A As I came up, Mr. Condit was lying there, and I just glanced at him and kept going.

Q That was not the time you asked if anybody had gotten the number? A No, that was when I was coming back. I just glanced at him and kept on going and I had gone thirty or forty feet when somebody started firing behind me. I do not know where they came from.

Q Where did the car you were pursuing turn off at Mt. Pleasant avenue? A The first turn.

Q Was that Clark street? A I do not know the name of the street. It is the first street on the left of Mt. Pleasant avenue.

Q Are you sure about that? There is a Gouverneur street up on the first corner. A



Well, the first, whatever that is, is where they turned.

Q They turned to the left? A Yes.

Q And when you got there you also turned? A I turned to the left.

Q Was the car you were pursuing in sight when you reached the corner and turned left? A No.

Q It was out of sight? A Out of sight.

Q And you went up this street—we will suppose it was either Gouverneur or Clark street? A Till Belleville avenue, the car line.

Q And there which way did you turn? A I turned around.

Q And looked around? A Yes, in each direction.

Q And did you see the green car? A No.

Q And so you turned back east to Mt. Pleasant avenue? A Right.

Q And then back to the Reid plant? A The Reid plant.

Q So I take it that you last saw that car when it turned west out of Mt. Pleasant avenue? A Yes.

Q And you do not know what became of it after that? A No.

Q You came back to Mt. Pleasant avenue and hesitated long enough to inquire if anybody had got the license number? A That is it.

Q And then drove on into Clay street? A Yes.

Q And west to Broad street? A Yes.

Q Now, this gentleman of the fire department that you spoke to, wasn't that Mr. George F. Lynch, Deputy Chief? A Yes, that is right.

Q And not Mr. Moore? A No, I got mixed up.

*Thomas J. Osborne, cross.*

Q Did you see anybody else there except the man whom you said threw the bag into the car? A No.

Q I suppose you did see some figures around? A Well, the only place I did see anybody near there was that machine shop or garage further down the street.

Q How many figures lying on the ground did you see? A One.

Q You did not see Mr. Duff lying on the ground? A No.

Q You did not see him there at all? A I didn't see Mr. Duff at all, no.

Q You didn't see a small boy going back? A Yes.

Q And I suppose when you came back there was a lot of people around? A Yes, there was quite a few.

Q You did not get a glimpse of the driver of the car? A No.

Q Could you see whether there was a man on the driver's seat? A Yes.

Q There was? A Yes.

Q Did you see any other figures? A I saw two as I was coming up the street, when I passed the Reid Company.

Q In the car? A In the car.

The Court: In the driver's seat?
Witness: No, the rear seat.

Q And you saw first the side face and then the full face of this man? A As he was getting into the car.

Q And that was just after the third shot was fired and after the car had started? A Just as it was starting.



*Thomas J. Osborne, cross.*

Q And you at that time were about where the letter M is or perhaps a trifle beyond? A Yes.

Q How fast were you driving? A I would say about twenty.

Q You were not speeding up to get into action? A Just as I got into the street I did.

Q You could not go very fast on a curve? A No.

Q But as soon as you made the turn, you opened up a bit? A Yes.

Q As fast as you considered it safe to drive? A As fast as I could go.

Q Now, you never made any report to the police? A I gave Detective Anderson my name and address. I was introduced to him by Lieutenant Lynch as Mr. Anderson.

Q Didn't you tell Mr. Anderson that you heard the shots and got the license number but that you could not see anything more? A Detective Anderson did not ask me anything but my name and address.

Q You did not tell him anything? A He did not ask me anything.

Q Didn't you tell him anything? A No, sir, because Mr. Lynch had already been back there.

Q Didn't you tell him the license number? A I didn't.

Q You didn't tell him you heard the shots? A I didn't tell the detective anything at all.

Q You came up to my office here in the Court House, didn't you, on the 26th? A I did. I do not remember the date.

Q The latter part of August? A Yes.

Q And saw Mr. McKenna? A I do not know who I saw.

Q Did you see this gentleman? A I do not think so.

Q (Referring to Mr. Jerome McKenna.) Did you see that gentleman? A No, I don't think I did.

Q You don't think you saw either one of them? A No, neither one, no, sir.

Q How long were you here? A Why, close to two hours.

Q How did you happen to come? A Someone left a note with my wife.

Q And you were here close to two nours? A Yes.

Q Talking to someone? A I was not talking to anybody. I wanted to talk to someone.

Q Well, did you finally talk to somebody? A No.

Q You left without seeing anyone? A Yes, I saw Detective Giuliano and at that time he was talking with Mr. Lynch and I had already told two or three people, and I had a lot of appointments and I could not stay very long, and Mr. Guiliano said, "Go out, I will see you in a minute." And he didn't see me.

Q Did Detective Guiliano ask you if you could tell him anything about the case and give him a description, and you said no? A No, he didn't ask me any questions. He asked Mr. Lynch is this the man you mean, as I walked in. It was in the courtroom and he was sitting behind a rail, and the detective pointed to me, and said, "Is this the man you are talking about"? and he said, "I will see you in a minute," and I said, "I am in a hurry and said I cannot wait." and I waited about three-quarters of an hour and I had to go.



Q Where do you live? A 26 Brookdale avenue.

Q Is that here in Newark? A Yes, sir.

Q In the Weequahic District? A No, it is in the South Orange section, the Vailsburg section.

Q You were subpoenaed to come here? A Why, I was not subpoenaed, prosecutor.

Q Well, how do we happen to have you here? A After seeing these pictures in the Sunday Call I thought I should go and tell somebody they had the wrong people, in my estimation, and I went to Mr. McGeehan's office.

Q And you went to Mr. McGeehan's office and talked to him? A I did.

Q How soon after was that after the Sunday in which these pictures appeared? A Why, I should say three or four weeks, two or three weeks.

Q Two or three weeks after the photographs appeared? A Yes, sir.

Q And how long ago from now is that, that is, how far is that? A It must be a couple of months, eight weeks.

Q A couple of months since you went to Mr. McGeehan's office? A I did.

Q Where is his office? A It is on the corner of Broad and Market, on the 5th floor, if I am not mistaken.

Q The Kinney Building? A The Kinney Building, yes, sir.

Q And have you been there since? A Once since.

Q You don't recall seeing Mr. McKenna of my office? A No, I do not.

*Thomas J. Osborne, re-direct.*

*By the Court.*

Q Did you see Mr. Seigel up there? A At the Reid Company?

Q Yes. A No, sir, I don't remember seeing him.

Q Did you see a Flint car? A No, sir.

Q Did you see a Flint car parked on the right-hand side of the street going north on Mt. Pleasant avenue? A No, sir.

Q Did you see anybody in the small car in front of the Reid plant? A No, I did not.

Q Did you see a truck parked back against the curb or the buildings? A Yes, sir.

Q You saw that? A Yes, I passed quite close to it.

Q And you did not see Mr. Seigel's car? A No, sir.

Q Did you see any car near the Reid ice cream plant other than the car that was in front of the door where Mr. Condit was lying? A I don't remember seeing any, no, sir.

Q Did you see another car in pursuit of the green car or following your car? A No, sir, there was some trucks on the right-hand side.

Q Did you see a man in front of you in another automobile pursuing this car or did you look behind to see if anybody was after you? A There was no one in front of me, if there was a fellow behind me I did not see it, there was no one between my car and this green sedan.

*Re-direct examination* by Mr. McGeehan.

Q You were not looking backward when you were pursuing that car, were you? A No, sir.

Q You don't know whether somebody else started after you? A No, sir.



*Thomas J. Osborne, re-cross.*

Q When you did come to my office who did you speak to and give your story to? A Why, first I saw your clerk and then I saw this gentleman here.

Q Mr. Corrigan? A Yes, sir.

Q Did you see him in my office? A Yes, sir.

Q And did you ever see me in my office? A No, sir.

Q You saw me in court here during last week's trial? A Yes, sir.

Q You have been here every day? A Except Saturday and Friday.

Q And you spoke to me here? A Yes, sir.

Q And I asked you some questions? A Yes, sir.

Q And you are here as a volunteer witness in the interests of justice? A Yes, sir.

*Re-cross examination* by Mr. Bigelow.

Q You have been here a whole week? A Excepting Friday and Saturday afternoon and not yesterday.

Q You were here Monday, Tuesday and Wednesday? A Yes, Monday, Tuesday, Wednesday, Thursday and Friday morning.

Q And yesterday? A Not yesterday, no, sir.

Q Monday? A Yes, sir.

Q And you were not subpoenaed at any time? A Oh, I got a subpoena, they would not let me in, I could not get in without it.

Q You got a subpoena as a card of admission? A Yes.

Mr. McGeehan: You received it as a card of admission but you don't know whether

we gave it to you to be sure you would be here or not? A I don't know.

Adjourned until Friday, November 26, 1926, at 10 o'clock A. M.

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## TENTH DAY.

Friday, November 26, 1926.

Appearances as before stated.

Trial continued.

BENJAMIN J. McFARLAND, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. McFarland, what is your business? A Salesman.

Q For what company? A Hudson and Essex.

Q Hudson and Essex automobiles? A Yes.

Q And what branch of the Hudson and Essex are you agent for? A Kearny.

Q Did you have occasion to go to a bank in Belleville sometime in the month of July? A I did.

Q Who did you go to the bank in Belleville with? A I had an appointment with Mr. Silverman's brother at 10 o'clock in the morning.

Q With whom? A Mr. Silverman's brother.

Q That is Max Silverman's brother? A Yes.

Q The man who was on the stand the other day? A Yes.



Q And who else did you have the appointment with? A His brother Nate.

Q And who else? A Mr. Cutter.

Q And who is Mr. Cutter? A He is the distributor of the Elcar.

Q And where is he from? A Morristown and Dover.

Q Is he distributor for that territory? A Yes, the State of New Jersey.

Q What was your purpose in going to the bank? A Well, Mr. Silverman's brother and myself were thinking of taking over the agency of the Elcar. We had an appointment with Mr. Cutter to take us to the bank to discount the paper. That was supposed to be 10 o'clock in the morning. Mr. Cutter telephoned and said—

Mr. Bigelow: I object.

The Court: You cannot tell us that.

Q There was a telephone call by Mr. Cutter? A Yes.

Q By reason of that was the appointment fixed for later? A Between two and three.

Q Where were you to meet these other men? A Which one, Mr. Cutter?

Q Mr. Cutter and Mr. Silverman's brother? A I was to meet Mr. Silverman's brother at 28 New street and go to the bank and meet Mr. Cutter.

Q Oh, you were to meet Mr. Cutter at the bank? A Yes.

Q What bank was that? A I think it was the Peoples' Bank in Belleville.

Q Now, what is at 28 New street? A A restaurant.

Q What date was this, by the way? A July 19th.

Q 1926? A Yes.

Q Did you go there on July 19th in connection with this appointment? A Yes.

Q What time did you go there? A Well, we left the restaurant about 2:10 or 2:15.

Q That is when you went to the bank? A Yes.

Q But when did you go to the restaurant first that day? A About 9:30 in the morning.

Q How long did you remain there? A Well, I waited there until I got Mr. Cutter's telephone.

Q What time was that? A That was in the neighborhood of 10:30 or 11:00 o'clock.

Q And then the appointment for between 2:00 and 3:00 at the bank was made, is that right? A Yes.

Q Now, did you remain there after that phone call, at 10:00 or 10:30 or 11:00? A No; I went to several different places I had to go to.

Q Did you return there? A Yes.

Q When you returned, was Max Silverman's brother there? A Yes.

Q Before you left, who else arrived, if you remember? A Mr. Max Silverman with a new Packard car. We were just going to leave then.

Q What kind of a car was that? A A Packard straight eight open car.

Q And when Max Silverman arrived with that car, did you look at the car? A Yes.

Q And was any phone call made by Mr. Silverman if you know? A That I don't know.

Q Did anyone else arrive after Max Silverman arrived with the car? A Yes.

Q Who? A Mr. Ruff.

Q That is the defendant Capozzi? A Yes.

Q The defendant Capozzi? A Yes.



Q About what time did he arrive there, or had he arrived before Silverman came in the car? A He came after Mr. Silverman.

Q About what time was it then? A Oh, I should judge it to be about 2:00 o'clock.

Q And who else arrived if any one? A Nobody.

Q Now, how did you go to the bank in Belleville? A We went up in the new Packard straight eight.

Q And who drove the car? A Mr. Ruff.

Q Was the top up or down? A It was down.

Q When you got up to the bank—who else went in the car besides? A Mr. Silverman's brother and Mr. Silverman and Ruff and myself.

Q That is, four of you went in the car? A Yes.

Q When you got up to the bank in Belleville, did you meet Mr. Cutter? A Yes.

Q Who went into the bank? A Mr. Silverman, Mr. Cutter and myself.

Q Who did you see in the bank? A Mr. Rose, I believe, his name was, vice-president.

Q What time did you leave there? A We left there just before banking hours closed, before 3:00 o'clock.

Q Do you remember how you left there? A Mr. Cutter drove us back.

Q Do you know who came back with Ruff? A Mr. Max Silverman.

*Cross examination* by Mr. Bigelow.

Q You say Mr. Cutter drove you back from the Belleville bank? A Yes, sir.

Q He had an automobile there, too? A Yes.

Q That was about 3:00 o'clock or so? A I presume about a quarter to three and three o'clock.

Q Did Mr. Silverman leave before you did? A Yes, sir.

Q How long before? A Well, he left right after we got up there.

Q Mr. Silverman— A Mr. Max Silverman.

Q He went into the bank and came right out? A No, his brother went in; he had nothing to do with it; that is his brother and I.

Q That is Nathan Silverman? A Yes, sir.

Q Did Nathan Silverman leave before you did? A No, sir.

Q Did Mr. Cutter bring him down? A Yes, sir.

Q Max left with Mr. Ruff? A Yes, sir.

Q How long have you known Mr. Ruff? A About a week or ten days.

Q How long have you been in the Hudson and Essex Company? A About two months and a half.

Q What did you do before that? A Selling Elcars.

Q Didn't you keep a saloon at the corner of High and James streets? A Yes, sir.

Q Do you still keep it? A No, sir.

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ERNEST L. SCHWARTZ, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A 125 Johnson avenue, Newark.

Q Who are you employed by? A Weber & Heilbroner, 800 Broad street.



Q What is your position with Weber & Heilbroner? A Assistant manager.

Q How long have you been that? A About seven years.

Q Were you in that position with the company in July, 1926? A Yes, sir.

Q Mr. Schwartz, do you remember an occasion in July when the defendant Capozzi, the man with the brown suit, and the defendant Juliano, came into your store and made a purchase? A I do.

Q Do you remember that occasion for any reason? A Yes, sir.

Q What impresses that on your memory? A They offered a thousand-dollar bill in payment for the merchandise.

Q And that is what made you remember it? A That's correct.

Q Have you associated in your mind the purchase of articles when they offered the thousand-dollar bill to you, what they bought? A Yes, sir.

Q What did they buy? A Two shirts, two ties—

Q Now, is this from your recollection or from record? A This is from records we have looked up to correspond with the sale.

Q Did you make the sale yourself? A No, sir.

Q Have you that record here? A Yes, sir.

Q Will you produce it, please?

The Court: Does this man know anything about that record, Mr. McGeehan?

Witness. Yes, sir.

Mr. McGeehan: I think he does, yes, sir. I also have the salesman.

Q What was purchased? A Two shirts at $10, one underwear at $7.50, one underwear at $5, one tie at $4 and one tie at $3.50.

Q Do you remember that the man who tendered a thousand-dollar bill purchased such articles at that time? A Yes, sir.

Q What date was that? A July 19th.

Q What time of day was that? A Around 3:00 o'clock.

Q And are those facts substantiated by your records? A Yes, sir.

Q What record have you? A A record of the sale and a record of the entry of the sale.

Q You have a sheet here called— A (Interrupting.) Daily report sheet.

Q Daily report sheet, is it? A Yes, sir.

Q Then, you have an individual— A (Interrupting.) Sales check.

Q Does the daily report sheet show items? A No, sir.

Q Does it show the total amount of the bill? A Yes, sir.

Q And this bill marked 134-137, is this the record of your local store? A That is correct.

Q To show the items and the detail that goes into the daily report sheet, is that right? A That is right.

Q Now, did you make this record yourself? A No. The record is made by the salesman who made the sale.

*Cross examination* by Mr. Bigelow.

Q I suppose you had to send out to the bank to get change for the $1,000 bill? A I offered to.

The Court: How many people came in?



Witness: Just those two.

The Court: Who offered the $1,000 bill.

Witness: If I remember correctly, it was the stout gentleman.

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MORRIS J. ALBERTS, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Alberts, do you remember making a sale as shown by this sales slip number 134? A I do.

Q Do you recognize anyone who you made that sale to? A The second gentleman and the sixth.

Q Indicating the defendants Juliano and Capozzi? A I do not remember their names.

Q What made you remember those men? A Why, the $1,000 bill that they offered me in payment for the merchandise that they bought at the time.

Q And also the purchase that they made? A Yes.

Q One of them bought silk underwear? A Well, one of them did all the buying.

Q Well, I mean there was a purchase of underwear, $7.50, on here? A Yes.

Q And do you know about what time of the day that was? A About 3:00 o'clock; a little after.

Q What makes you remember that? A They offered me the $1,000 bill; that is, they gave me a $1,000 bill to me, and it was the first time I ever saw a $1,000 bill, so I called the assistant

manager over, and he asked them whether they had something smaller.

Mr. Bigelow: I object.

Q You cannot tell the conversation, but what makes you remember the time in the afternoon? A Well, the assistant manager wanted to see whether the bank was still open.

*Cross examination* by Mr. Bigelow.

Q I don't know whether it makes any difference, but I would like to know what a $1,000 bill looks like, what color is it? A Well, it had a gold back, as they call it, and it had a few, that is, the little silk threads that they have in them.

Q It looked about like a $20 bill, gold certificate? A Well, it looked like a $100 bill.

Q Is that $1,000 bill what is called a grand, as far as you know? A As far as I know, yes.

Q Who made the purchase? A Well, to my estimation, they both made the purchase.

Q Well, I understood you to say one man did the ordering. A Well, one man did the ordering, but the other man helped.

Q Which man did the ordering? A The stout one.

Q Was it he who handed you the $1,000 bill? A As far as I can remember, yes.

Q Do you recall the size of the shirt? A I do not.

Q Do you recall whether the shirt was for a heavy-set man or a tall thin man? A I do not remember.



*Re-direct examination* by Mr. McGeehan.

Q Do you know whether that is from your store; can you tell us whether that is the underwear that you sold at that time? A If it is not, it is an exact imitation.

Q How much would that suit of underwear be at your store? A $5.

Mr. Bigelow: The underwear you are speaking of is on Big Joe Juliano?

Mr. McGeehan: Yes, not the shirt, the underwear.

*Re-cross examination* by Mr. Bigelow.

Q That was a few minutes after three o'clock? A Yes, I am positive of that.

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EDWARD J. GELDART, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A 233 Newark avenue, Bloomfield.

Q What is your business? A Upholsterer.

Q Have you your own business? A Well, not now. I work for the Rosen Furniture Company, 352 Broad street.

Q And how long have you worked there? A Oh, ever since the New Year, I think.

Q And are you married? A Yes.

Q Where were you employed on the 19th of July? A I was employed by the same company in their warehouse at 319 Mt. Pleasant avenue.

Q 319 Mt. Pleasant avenue is where with respect to the office of the Reid Ice Cream Company? A Directly across the street.

Q Will you familiarize yourself with that for just a moment, please?

Q Now, 319 is directly across from the Reid office, is that right? A Not exactly, it is directly across from the Reid plant.

Q What kind of a building do you work in, a frame or a brick building? A A frame building.

Q There are two 319s, aren't there? A Yes, sir.

Q One is brick and one is frame, is that right? A Yes.

Q Then, the one across from the platform is the one you were working in? A Yes, sir.

Q Now, what floor were you working on that day? A The first floor.

Q Who did you work for? A The Rosen Furniture Company.

Q Now, did you hear or see anything of the hold-up that took place there on the 19th of July? A I did.

Q What was the first knowledge that you had of an unusual occurrence? A I was attracted to the door by the noise. First I looked out of the window, but the window was very dusty and when the sun strikes directly on it you cannot see very clearly through it, although it is a big window.

Q And what made you look out? A Well, I heard somebody holler "The payroll," and I heard, I thought it was a shot, but I am not sure about the shot.

Q And did you look? A I came to the door and looked out.



Q And after that were more shots fired? A Not directly.

Q I mean after that, I don't mean immediately as you looked out? A As I looked out I saw a party with a gun in his hand on the left-hand side of this big sedan towards the front of it, he was accompanying a boy that would seem to me had a white shirt and a pair of kahki or light trousers on, and he did not have no coat on; he was standing in front of the Chevrolet, and immediately after that I saw two men run across the street, diagonally towards the middle of the two cars, both the large sedan and the small pay car or receipt car, whatever it is, as they came across the street the man nearest the inside fired two shots.

Q Now, did you get a look at any of the men? A I got a pretty fair look at one of the men nearest me crossing the street and the one that accosted the boy with the light shirt and light trousers.

Q Now, you have seen the defendants here, haven't you, sitting in court here? A I have, yes, sir.

Q In your opinion was the man you saw any one of these defendants?

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

The Court: You don't want his opinion.

Q Was the man you saw any one of these defendants? A No, sir.

Q By the way you were subpoenaed by the State, weren't you? A Yes, sir.

Q And you were not called in the State's case? A No, sir.

*Edward J. Geldart, cross.*

*Cross examination* by Mr. Fisch.

Q Mr. Geldart, what was the first thing that attracted your attention? A The first noise I heard, I could not hear it very distinctly, there is a lot of back firing going on there most every day, and somebody I recall yelled, "The payroll."

Q That is the first thing that attracted your attention somebody hollering "The payroll"? A Noise and "The payroll."

Q Now, what kind of noise? A Well, it seemed kind of muffled, I was busy working filling cushions that day, right in the window there, and I saw what I took to be a noise that attracted my attention and immediately somebody hollered "The payroll."

Q And the first thing you did was to go to the window? A To the door.

Q Didn't you look through the window first? A I glanced through the window.

Q And you could not see? A Not very distinctly.

Q Then you went to the doorway? A Yes, sir.

Q And did you remain at the doorway there the whole time of this occurrence? A What I have described I remained in the doorway.

Q Then did you see that car drive away? A I left the doorway after what I just described occurred and came back again, stayed there awhile longer, reached on the floor and picked up a couple of blocks of wood and went out and by that time the car must have been about fifty feet away. I threw two blocks of wood after the car and right after that I saw a man leaning out of the Reid Ice Cream Company and fired directly at the retreating car, four shots.



*Edward J. Geldart, cross.*

Q Now, outside of those four shots that you saw a man leaning out of the Reid window right after that car—you are sure about that, are you? A Yes, sir.

Q Outside of those shots how many shots did you hear that morning? A I heard two shots after these two men ran across the street and I heard a noise that attracted my attention and outside of that I did not hear any shots.

Q And the men that you saw running across the street, did you see them with a gun in his hand? A I saw—yes, with guns in their hands.

Q They did, you are sure about that? A Yes, sir.

Q And the man that you have described with a white shirt and kahki trousers, where was he? A He was standing alongside a small pay car facing me.

Q What became of him? A Well, he was still standing there when I left the first man.

Q He was still standing there when you left? A Yes.

Q Did you know Mr. Condit? A No.

Q Did you see anybody fall to the ground there that day? A No.

Q You did not see that? A No.

Q Did you see anybody on the ground? A I don't think I did.

Q Well, do you know Mr. Duff? A Yes, I know him now.

Q What is that? A I know him now.

Q Did you see him that day? A Yes.

Q Where was he? A He was the man facing me in the light trousers and a white shirt.

Q Oh, Mr. Duff was in the kahki trousers and the light shirt? A Yes.

Q You are sure about that? A Yes.

Q Now, the men that you saw with guns in their hands, can you give us a description of those men? A Well, closely. The first party I saw—

Q Now, just a minute. You saw one man—did you see any man run up to the side of Duff? A Yes.

Q And will you describe his height, tell us about his height? A Well, he was about the same height as Mr. Duff.

Q What would you call that, tall or under average or what? A Slightly under average, I believe.

Q He was under average height, and what about his build? A He was pretty heavily built, I think.

Q Stocky, was he? A Sort of stocky, yes.

Q So you would call him short and stocky, would you? A Yes.

Q Now, what else can you describe—who else can you describe? A Well, he had a pretty big jaw, and his features were prominent.

Q Well, you mean you could see his nose and ears, is that what you mean, his features were prominent? A Well, I saw him side face.

Q You saw him side face? A Yes.

Q Did he have a hat on or a cap? A I think he had a straw hat on, and I think it fell off.

Q You think it fell off? A Yes, in the scramble.

Q Scramble? A It fell off while he was reaching for Mr. Duff.

Q Did you see anyone pick it up? A No.

Q When you came out again, was it still on the ground? A Well, when I came out again,



all the men were not out there, the last two men were just about getting in the car.

Q Well, this last man you described as short and stockily built, was he light or dark? A He looked to be light. He seemed to have light hair.

Q He seemed to have light hair, and did you notice about the color of his eyes? A No, I couldn't notice from that distance.

Q What? A I couldn't notice from that distance with a side face view.

Q And you are not sure either about the color of his hair? A Well, I would not be positive, but it seemed to be light hair.

Q Well, you are not sure enough to say it was, is that right? A No.

Q Now, you say you saw another man besides that with a gun in his hand? A Yes.

Q Now, can you give us a description of that other man? A About five feet—I should judge he is taller than I am, and he must have been pretty nearly six feet, five feet eleven and a half, something like that. He had pretty broad back, and he seemed to be broad down to his hips. He wore a blue suit. He seemed to have gray hair on the side of his head, over the temples, and I should judge he had pretty well built arms, pretty heavy set fellow. I was noticing that particularly, because I did not think at the time it would be a good idea to run out and accost him, with the other men holding guns in their hands.

Q Did you notice the color of his eyes? A No, I saw his face from a three-quarter view from the back.

Q It was a three-quarter view from the back? A Yes.

Q So the most you saw of him was his back? A His back and the side of his head under the straw hat.

Q And those were the only two men you saw with guns in their hands? A No, sir. There was another man running alongside of him. He was out of my view mostly all the time until he got almost directly to the two cars. I noticed that he had broad shoulders and was thick set and was not as tall as the other man. He must have been about five inches shorter.

Q He had broad shoulders and he was thick set and you would describe him as short? A Yes.

Q And stocky? A And stocky.

Q Now, what color hair did he have? A I did not get a glimpse of his hair.

Q You did not get a glimpse of his hair at all? A He was about four or five feet further away from me. As I say, he was screened from my view part of the time.

Q So he was four or five feet further away from you than the others? A Yes, at different times.

Q And did you get a full face view of him? A No.

Q Well, did you see him from the back or the side or how? A I saw him from the back after he got away from the other man.

Q You saw him from the back? A Yes.

Q You did not see his face at all? A Well, I saw his face, but I did not see it distinctly so quick, that I didn't just get a good glimpse of him.

Q Well, did you see his face at all? A I am pretty sure I saw his face.



Q Well, did you get a full view of his face or a half view? A When he got over by the car he turned directly facing Mr. Duff and then I got a side face view.

Q But you cannot recall what he looked like? A Not distinctly.

Q Then, your whole recollection of the matter is rather hazy and indistinct, isn't it? A Well, I wouldn't swear that I could describe them accurately.

Q You won't swear that you could describe them accurately—the action all took place very quickly, didn't it? A There was quite a bit of action there.

Q And during the scene of this action you went back to your place to get a couple of blocks of wood? A What action I have described I saw in front of the door and I described the action after I came back to the door. I did not describe anything I didn't see.

Q You saw the limousine there, did you? A A big limousine sedan.

Q Did you see anybody in the car? A No, sir.

Q Did you see anybody in the driver's seat? A No, sir, I did not watch the car particularly, I was watching the man running.

Q Well, the car was in the line of your vision, wasn't it? A Yes, sir.

Q What is that? A Yes, sir, it was in the middle of both sides of my vision.

Q I don't get you? A Well, glancing at the two men running across the street I looked to the right of the Pierce-Arrow and glancing at the man that accosted Mr. Duff I think I glanced in front of the windshield of the Pierce-Arrow.

Q And the Pierce-Arrow was in the line of your vision, wasn't it? A Yes, sir.

Q And the Pierce-Arrow was nearer to you than these men whom you have described although you say you could not give an accurate description of them?

Mr. McGeehan: I object to that, he did not say he could not give an accurate description of them, he said the last man you questioned him about.

Q The Pierce-Arrow was in the line of your vision and was nearer to you than the men you have described? A Than one man.

Q Nearer than one man? A Yes, sir.

Q And you did not see anybody in the driver's seat at all? A No, sir, you see that Pierce-Arrow—

Q You have answered my question. Then, you say the car drove off, didn't you? A Yes, sir.

Q And did you see anybody at the driver's wheel then? A No, sir.

Q Didn't see anybody at the wheel? A No, sir.

Q Did you see anybody in the car? A Did I see anybody in the car?

Q Yes. A I did not notice anybody after they got into that car. I saw two men get in the car toward the end but after it pulled out I could not see them.

Q Well, the shades were not pulled down, were they? A I wouldn't say so.

Q Do you know whether they were or not? A I don't imagine they were pulled down, no.

Q Still you did not see anybody at the wheel of that car? A There are so many obstructing



parts to the car that from the view I had they could easily be concealed.

Q Well, now, let's see. This sedan was right opposite the coupe, wasn't, the Chevrolet coupe? A No, sir.

Q Now, where was the Chevrolet coupe, point it out for me, please, on this map, with reference to the steps coming out from the Reid plant? A I should say the rear of that coupe was right there.

Q Where was the front of it? A The front of it was right here (indicating).

Q That is the front of it would be at a point opposite the steps going up to the porch in front of the Reid plant? A Yes, sir.

Q And where was the Pierce-Arrow sedan? A The Pierce-Arrow was just a little beyond that, I should judge, that the rear wheel of the Pierce-Arrow was just in front of the side door of the small pay car.

Q And you were in the doorway at No. 319? A Yes, sir.

Q Now, is that doorway in the center of the building? A It is on the left-hand side as you look out towards the street.

Q That would be the most northerly side away from Clay street, is that right? A As I understand it, yes, sir.

Q So that the Pierce-Arrow was nearer to you than the Chevrolet coupe, is that right? A Yes, sir.

Q Did you see whether or not there was anybody in that party with a cap on? A I don't believe there was anybody with a cap on.

Q You don't believe there was anybody with a cap on at all? A I saw three men, any other man I cannot tell you what they are.

Q What is that answer? A I saw three men in the actual hold-up, that is not including Mr. Duff or any outsiders, and anybody else connected with the hold-up I did not see.

Q What about the age of these men, did you observe anything about that? A Well, they were fairly well along in years, they were not old men, they were not young, they must have been about thirty-five or forty years of age.

Q Thirty-five or forty? A Maybe not as much as forty. Around thirty-five, they struck me as being very well along in years.

Q Now, you made a statement to the police, didn't you? A Yes, sir.

Q And that statement you made on the 26th of August, didn't you? A I don't recall the date.

Q Well, it was about that, wasn't it? A Very likely.

Q And in that statement you gave a description, didn't you? A Yes, sir.

Q And didn't you say in that description that they were all about thirty years of age? A I may have.

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

Q Well, didn't you? A I don't recall what I said on the statement, I gave the description as I could see it.

Q Well, this is your signature, isn't it? A Yes, sir.

Q And isn't that what you said? Doesn't that refresh your recollection as to what you said? A Yes, sir.

Q And you said then that they were all about thirty years of age, is that right? A On that statement—I did not write that statement, I signed it.



Q No, but it was read to you before you signed it? A Well, I meant an average age there.

Q That is what you meant an average age, is that it? A Yes, sir.

Q Well, now, didn't you go ahead and describe three men as No. 1, No. 2, and No. 3? A Possibly.

Q Well, didn't you? A I think I did, yes, sir.

Q Well, don't you know you did? A I am pretty sure I did, yes, sir.

Q Well, now, what is it, "possibly" or you think you did, you are pretty sure you did, or what was it?

Mr. McGeehan: I object to that as argumentative. I think the witness has answered the question quite fairly, "I am pretty sure I did."

A Well, I know I did.

Q You know you did? A Yes.

Q And didn't you describe one man as thirty years, five feet five or six inches tall, stocky built? A I do not recall just the exact words I used on that statement.

Q Well, now, that statement was read to you; you read it before you signed it? Is that right? A Yes, it was read to me. I dictated it, I think.

Q Well, now, I show you the statement; isn't that what you said?

Mr. McGeehan: I object to that. The record cannot show what the witness is being shown. If the prosecutor will read what he is showing him we will have it in.

The Court: I think it is in the record.

Q Isn't that what you said?

Mr. McGeehan: I object on the ground that the record cannot show what the witness is being asked.

The Court: Mr. McGeehan thinks you ought to refer to the statement which the witness said he signed and dictated.

Mr. McGeehan: No, that is not the point at all. Did you say this, did you say that.

Q Now, I show you the statement. Didn't you, by referring to that statement now and looking at it, can you not tell us now that at that time you said that number one was—the man you described as number one was thirty-one years old and five feet five or six inches tall and stocky built? A I don't know—

The Court: The question is did you dictate that or say that.

Witness: Well, if it is on the statement and I signed it, I did.

Q It is on the statement? A Yes.

Q And you signed it? A Yes.

Q So you did say it? A Very likely I did.

Q And did you say at that time, didn't you tell the police and sign the statement to the effect that number two, the man whom you described as number two, was thirty years old? A Well, I was giving the police—

Q Now, did you say that?

The Court: Just a minute. Not what you think now. You are asked a specific question.



A Well, I wanted to clear that up.

The Court: Wait until you are given an opportunity. Answer questions.

Q Well, did you say that? A Is it on the statement?

Q If it is on the statement you did say it? A Yes.

Q And if it is not you did not say it? A Yes.

Q Is it on the statement, number two, thirty years old? A Yes.

Q Then you did say it? A Yes.

Q And you say that you meant that the average age is thirty years; is that right? Is that right that you meant the average was thirty years? A What is the third man's age in that statement?

Q Well, now, you have made the statement. Do you know what age you gave of the three men? A Well, I would say their average age was about—

Q Well, now, that is not in answer to my question, and I move it be stricken out as not responsive. Do you know what age you gave in the statement of the third man?

Mr. McGeehan: I object as not proper cross examination.

The Court: Sustain the objection.

Q Did you give any age of the third man in the statement?

Mr. McGeehan: I object to that as not proper cross examination, on the ground that is not contradictory of anything he said on the stand.

The Court: I will allow it. We do not know yet.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

A I think I gave the age.

Q Are you sure whether you gave the age or not? A I cannot be sure.

Q Well, if there is an age stated on the statement, will you say that you did give the age? A I will.

Q And if there is not an age, you will say you did not give the age; is that right? A Yes.

Q And you have not any recollection now as to whether you gave the age or not? A I think I gave the age.

Q You think you did? A Yes.

Q Now, I show you this statement describing number three. Is there any age on that? A No.

Q So you did not give the age, did you? A Well, that clears up that point.

The Court: Just answer the questions.

Q Will you answer the questions, please? You did not give the age? A Evidently I did not give the age.

Q And the only description you gave of the third man was that he had dark clothes and a straw hat on? A On the statement, yes.

Q Well, that is the only description you gave the police? A No.



Q You gave them a greater description than that? A I did.

Q And they did not put it in the statement? A I did not give it to them at that time.

Q Well, you dictated the statement, didn't you? A I think it was—I answered a few questions and dictated some.

Q Didn't you say a few minutes ago that you dictated the statement? A Yes, and I also answered a few questions.

Q And in addition to the dictating that you took part in at that time, the police asked you questions on top of that dictation, didn't they? A Well, they helped me along, yes.

Q Yes, they wanted to get as much of a description as they could from you.

Mr. McGeehan: I object to that. The witness cannot tell what was in their minds.

The Court: Strike out that part of the question.

Q And you were dictating the statement and answering questions on the 23rd of August—the 26th of August? A I do not recall the date.

Q Well, now, if the statement bears that date, would you say that that is the date? A I do not recall anybody putting a date on the statement. They might have put it on and they might not have, but I do not say that is the date, because I do not recall exactly what is the date.

Q Well, look at the statement and has it a date on it? A It has.

Q And is that date August 26th? A Yes.

Q Now, does that refresh your memory as to whether it was the 26th of August? A No.

Q Well, it was some time in August, wasn't it? A I think so.

Q And the things that occurred on the 19th of July were fresher in your mind the latter part of August than they are now, weren't they? A Well, I can recall what I saw that date just as clearly now as I did then.

Q And you could recall then what you saw in July just as clearly as you can now? A On July 19, yes.

Q In August your memory was just as good about what you saw in July as it is now, wasn't it? A I do not think—well, I will answer that question this way, writing out a statement—

The Court: No, that is not the question.

Mr. McGeehan: Well, the witness may not be able to answer it by yes or no. I think he ought to be allowed to complete his answer.

A No, sir.

Q You think that your memory of what occurred in July is better now than it was in August; is that right? A You did not specify that in your first question.

The Court: Did you understand the question.

Witness: Yes, sir.

Q Well, will you answer the question. A My memory is not as good now for things that are happening now as they were in July for things that happened in July.

Q Well, is your memory as good now for things that happened in July as it was in August for things that happened in July? A If you say any particular thing I will tell you.



The Court: We are interested in one thing only. What happened on July 19th?

Witness: My memory is just as clear now in regard to that one incident that happened on July 19th as it was then.

Q Well, was your memory just as clear in August as to what happened on July 19th as it is now? A Yes, sir.

Q Well, then, why didn't you give a complete description to the police when you were dictating this statement? A Why didn't I give a complete description?

Q Yes. A There were so many witnesses with so many things that contradicted me on everything that I gave them that I did not want to handicap the police if my judgment was wrong.

Q So that you thought your judgment might be wrong; is that right? A In view of the fact of what other witnesses saw.

Q Well, there weren't any other witnesses in the room when you were dictating your statement, were there? A No; I had seen plenty before that.

Q What do you mean "You had seen plenty"? A Plenty of witnesses and heard their stories and talks and so forth.

Q You talked with other witnesses; is that true? A Yes, sir.

Q You were not present when they were making statements to the police, were you? A No, sir.

Q But you had talks with other witnesses? A Yes, sir.

Q And these other witnesses' descriptions of what they saw differed radically from what you saw, you say? A Not their descriptions.

Q Their descriptions were different? A Not their descriptions.

Q Were their descriptions the same? A I think their descriptions in regard to certain things were different; yes, sir.

Q Now, were their stories the same as yours?

Mr. McGeehan: I object; that is a pretty general question.

The Court: Well, the witness stated that it was his reason.

Mr. McGeehan: Well, "their stories"—what does the prosecutor refer to?

Mr. Fisch: I think the witness knows; there is only one story we are interested in in this case.

The Court: Do you understand that question?

Witness: Yes, but it is pretty general.

The Court: Well, do you understand it?

Witness: Yes, sir.

The Court: All right; answer it.

Witness: On the 19th day of July we were down to police headquarters—

Mr. Fisch: Now, I don't think that answers my question.

The Court: Answer it.

Witness: On the 19th day of July we were down at police headquarters—

Mr. Fisch: Now, I don't think that answers my question.

Mr. McGeehan: Let him complete his answer.

The Court: Maybe it does.



Witness (continuing.) —and they were describing some pictures and going over them and picking out who they thought were the men and who they thought were not the men and any man I picked out were not passed on by the rest of them; that is, the majority of them.

Q So their descriptions of these men did not tally with yours at all?

Mr. McGeehan: I object to that; that is not what he said, your Honor.

Mr. Fisch: I am trying to find out.

Mr. McGeehan: I object on the ground that you are now misstating the last answer. He is now referring to pictures that were picked out on the 19th of July at police headquarters.

Witness: What was the question?

(Question read.)

Mr. McGeehan: I think the prosecutor ought to state what persons, what witnesses in this case, as your Honor stated I had to specify in reference to the police officers when questioning witnesses.

The Court: No, it is a different situation. He is the man who suggested other people; he is the man who ought to know.

Mr. McGeehan: So ought the people I questioned about the police officers to lay a foundation.

The Court: I take it he knows what he is talking about and therefore he is describing the situation and he ought to know who he means.

Mr. McGeehan: Yes, but the prosecutor ought to ask him to specify the persons.

The Court: Well, now, whom do you mean when you speak of people there?

Witness: There were several witnesses down there that afternoon of the hold-up and they went over different pictures and some I picked; I picked a couple, and they were not passed on by the other witnesses whoever I showed them to.

The Court: What do you mean "passed on"?

Witness: Well, their objections; I picked out men with gray hair and none of them recognized him as the man.

Q Nobody else agreed with you that one of the men had gray hair? A No, nobody that I showed them to.

Q What is that? A No, nobody that saw them and heard my remark.

Q And these people that you spoke to you knew were there at the time you were there? A They were there, yes, sir; they were down at police headquarters, yes.

Q And they were at the scene of the hold-up at the time you were there? A I saw one witness at the scene of the hold-up—I saw two witnesses at the scene of the hold-up.

Q Did you see Mr. Seigel? A No, sir.

Q Did you see his car? A No, sir.

Q Did you see his car there at all? A No, sir.

Q Would you say his car was not there? A I would not say it was not there; no, sir.

Q And you saw Mr. Duff? A Yes, sir.



Q And Mr. Duff was nearer to one of the men you have described than you were, wasn't he?

Mr. McGeehan: Objected to as argumentative.

The Court: Overruled.

A I am taking Mr. Duff in the light as one of the principals in the scene, not as a witness.

Q Will you please answer my question? A If you include Mr. Duff, there were three witnesses.

The Court: Just listen to the question. Did you see Mr. Duff?

Witness: I did.

The Court: Was one of these men whom you describe as being in the hold-up nearer to Mr. Duff than you were to this man?

Witness: Yes, sir.

Q And that is the man whom you describe as having gray hair over the temples, is that right? A Yes, sir.

Q And did you see some girls up in the window of the Reid plant? A No, sir.

Q Well, would you say they were not there? A No, sir.

Q You don't know whether they were there or not? A No, sir.

Q And when you were down to police headquarters to look over photographs, that was on the 19th of July, the same day of the hold-up? A Yes.

Q And did you see Detective Anderson there?

Mr. Fisch: Stand up, please.

A Yes.

Q And was he showing you the gallery pictures? A Yes.

Q And did you point out some pictures to him? A I don't think so.

Q Did you ask him about certain pictures? A I might have.

Q Well, now, did you? A I do not know.

Q And didn't you point to certain pictures and ask Detective Anderson if the man in those pictures had gray eyes? A No.

Q Sure about that? A Pretty sure.

Q And didn't Detective Anderson then close up the gallery and say that any man who asked the question whether a man had gray eyes when you were away across the street could not see very much?

Mr. McGeehan: I object. There is not anything in that question contradictory of the testimony of this witness. The only conversations that on cross examination may be asked are questions referring to conversations contradictory to what the witness said on the witness stand. No other conversation would be binding on the defendants.

The Court: It is not a question of being binding. It is a question of relating to this man's credibility. This witness volunteers information he was shown pictures.

Mr. McGeehan: Bringing in whatever Detective Anderson may say about the ability of this man is not competent.

The Court: It is competent.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi



prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A He said nothing of the kind.

Q You picked out three photographs, didn't you?

Mr. McGeehan: I object to that. He testified he did not pick out any.

The Court: Just a moment. Let him answer that question. He is testifying.

A Not in regard to any Reid hold-up.

Q Well, were you down there looking for photographs with regard to any other hold-up? A No.

Q Well, then, what did you mean by that answer, "Not in regard to any Reid hold-up"? A I saw three men on the car the following morning, and I went down a few days later and I picked out two of those men, but I couldn't find the third, so I did not attach any importance to it. The third man I thought was one of the principals in this hold-up.

Q When was it that you went down on the car the following morning? A That was about ten minutes of eight.

Q Ten minutes of eight the following morning? A Yes.

Q Well, you were down to police headquarters on the 19th of July? A Yes.

Q And you were shown the photographs on that day, weren't you? A Yes.

Q And that was the only time you were shown photographs, wasn't it? A I was allowed to look through the racks a few days later.

Q And the photographs that you picked out at any time, were they photographs of men with gray hair? A I don't think so.

Q And they were photographs of men who you thought had participated in the Reid hold-up? A No.

Q Well, one of them? A He was not there. His picture was not in the rack.

The Court: No. Do you understand the question?

A Read the question.

(Question read.)

Mr. McGeehan: I do not know what he means. Does he mean the rack of photographs?

The Court: That is what I wanted to know. He said he picked out some photographs. Then he says in response to the last question they were not there.

Q Now, aren't these the three photographs that you picked out? A Not after the 19th.

Q Did you pick out these photographs at any time? A I looked those photographs over.

Q Did you pick out these photographs? A I do not think I picked out any of those photographs.

Q Will you say that you did not pick out these three photographs? A I did not pick them out as being in that hold-up.

Q You are not sure whether you picked them out or not, and if you picked them out, you say



you did not pick them out as being in this hold-up; is that your answer? A Yes.

(Photograph marked S. 25 for identification.)

The Court: Did you see the money bags?

Witness: No, sir.

The Court: Did you see any bags at all?

Witness: No.

The Court: Did you see Mr. Duff sitting in the automobile?

Witness: No.

The Court: Did you see him get in?

Witness: No, sir.

The Court: You say you heard one shot, at least, you thought it was a shot, and then you heard two more shots, is that right?

Witness: Yes.

The Court: Where was Mr. Duff when you heard the third shot?

Witness: I was not looking at Mr. Duff when I heard the second and third shots. I looked at the men who were firing the shots, when the one man was shooting to the other man.

The Court: At whom was he shooting?

Witness: The line of his shooting, I should judge, would go between both cars.

The Court: Which direction, toward Clay street?

Witness: No, it would be in the northeasterly direction.

The Court: A northeasterly direction?

Witness: Yes, that is, taking Mt. Pleasant avenue to run directly north.

The Court: Then, it would be in the direction of the Reid Company's plant.

Witness: In the direction of the left-hand side of the office.

The Court: When you speak of the left-hand side of the office, you mean the north side of the office? Is that correct?

Witness: The north side of the office.

The Court: The side of the office toward Gouverneur street?

Witness: Well, I don't know the streets.

The Court: Or Clark street?

Witness: I don't know the streets.

The Court: Not the Clay street side of the office?

Witness: No.

Q You were called down to police headquarters to witness a line-up, weren't you? A Yes, sir.

Q How many were in that line-up? A I did not count them, but I think the line stretched across a fifteen foot room, something like that.

Q Do you know whether or not these defendants were in that line-up? A These defendants?

Q Yes. A I saw two of the defendants in the line-up that I remember—three of the defendants.

Q Which two?

The Court: He says three.

Witness: I saw the first one between the guard, the second one between the guard and the fourth one between the guard.



Mr. Bigelow: Little and Big Joe Juliano and Barone?

Q And that is all of the defendants that you saw in the line-up?

Mr. McGeehan: I object to that, he said they are the only ones he remembered in the line-up, but he does not say those are the only ones he saw.

Q Look at the defendant Capozzi now and tell us whether or not he was in that line-up? A I don't remember seeing him.

Q And as you went down there to witness that line-up you were very nervous, weren't you? A Not so very.

Q What is that? A Not so very nervous.

Q Well, you looked very carefully at the men in the line-up, didn't you? A Well, I looked over every one of them I thought had to do with the Reid hold-up, I did not look expressly at anybody else.

Q Looked closely at everybody in the line-up, didn't you, to determine whether or not in your opinion, they were in the Reid hold-up? A Looked at them pretty closely?

Q Looked at them pretty closely, is that right, you smoked a lot of cigarettes, didn't you? A I think so, yes, sir.

Q And that was because you were nervous, wasn't it? A Well, I usually smoke in my leisure moments.

Q And this was one of your leisure moments when you were looking over this line-up, is that right? A Yes, sir.

Q And after you looked over the line-up did you see Sergeant Sweeney and O'Malley there? A I don't know them by name.

Mr. Fisch: Sergeant Sweeney and Sergeant O'Malley stand up.

(Sergeant Sweeney and Sergeant O'Malley rise.)

Witness: I don't remember seeing anybody there outside of the line-up in the room where the line-up was held.

Q Now, do you say that you did not see Sweeney and O'Malley there and speak to them, not in the room where the line-up was being held, but in another room after you came out from that room? A I spoke to this man right directly in back of Mr. Bigelow and I think he was taking the report.

Mr. Fisch: You mean this man? (Indicating Detective O'Gorman.)

Q Well, that is the man you made your statement to, isn't it? A Yes, sir.

Q That I questioned you about? A Yes, sir.

Q And that was not the day that you witnessed the line-up, was it? A No, sir.

Q That was some time before? A Yes, sir.

Q Now, before you had made the statement and went down to look at this line-up, and after you looked over the line-up when you came out of that room didn't you see Sergeant O'Malley and Sweeney? A I don't remember seeing Mr. O'Malley.

Q Do you remember seeing Sergeant Sweeney? A I think I did.

Q Don't you remember seeing Mr. O'Malley walk out of this room where the line-up was held with you into another room, don't you remember that? A He might have, I wasn't paying any attention.



Q You would not say that he didn't? A No, sir.

Q And didn't both of these men ask you if you recognized any of these men in the line-up as being any of the men that were in the Reid hold-up? A One of them said who—I cannot give his exact words, but he meant who had me stopped, or words to that effect, who made me hesitate or something like that.

Q Did you hesitate in front of one of the men? A I walked in front of all of the men but I cannot say that I hesitated at any one of them, I stood in different parts of the line and looked over them from different angles.

Q And didn't you say to Sergeant Sweeney and O'Malley in response to their question whether any of these men in that line-up were in the Reid hold-up, that you could not say? A I could not say, yes, sir.

Q You told them you could not say? A Yes, sir.

*Re-direct examination* by Mr. McGeehan.

Q Mr. Geldart, the pictures that you looked at in the Rogues Gallery, I guess that is what it is called, were they loose or in racks? A There are a lot of them in racks and some loose.

Q Did you have some of those in your hands out of the racks? A Well, I did, and I guess the other witnesses did.

Q That is what you mean by you picked out some pictures? A Yes, that is exactly what I mean.

Q When you said before, "I did not pick them out as being in the hold-up" you meant then

that you picked out a number of pictures out of the rack but could not identify any of them as being persons that you saw in the Reid hold-up, is that right? A Yes, sir.

Q Now, when was it that the detectives asked you who made you hesitate, was it after you had gone in front of the line-up? A Yes, sir.

Q And did they say anything to you what to do if you were not sure or make any suggestions to you? A No, sir.

Q Did the police ask you whether you saw the pictures of the men arrested in the newspaper? A No, sir.

Q You had seen the pictures in the newspapers, hadn't you? A Yes, sir.

Q You looked at them carefully before you went through the line-up? A Yes, sir.

Q And was reference made by the police to these pictures when you came into police headquarters? A No, sir.

Q What papers had you seen the pictures in? A I think it was the Sunday Call.

Q I show you D. 2 for identification and ask you whether you saw those two pictures in the Sunday Call? A I saw those two pictures, but I cannot say whether I saw them in the Call or not.

Q But you saw the same pictures as are represented here? A Yes.

(Pictures offered in evidence and marked Exhibit D. 2.)

*Re-cross examination* by Mr. Fisch.

Q You did not know when you looked at those pictures in the Sunday Call whether those were



the men or not? A I did not think they were the men, no.

Q You didn't know whether they were or not? A They did not answer my description.

Q Well, won't you answer my questions, please? You do not know whether they were or not? A I thought they were the men from the report in the paper.

Q You thought they were the men? A Yes.

Mr. McGeehan: From the report in the paper.

*Re-direct examination* by Mr. McGeehan.

Q You read the papers? A Yes.

Q And it read as if the police had, with open and shut proof against them, the men who committed the Reid hold-up?

Mr. Fisch: I object.

The Court: Sustain the objection.

Mr. McGeehan: I think I am right.

The Court: You have a right to ask any proper questions.

Mr. McGeehan: I think it is a proper one.

Q From what you read in the papers, you thought the police had arrested the right men? A From what I read in the papers.

Q But the pictures and when the men were later confronted by you, were not the men you saw, is that right? A No.

Q Well, what do you mean, no, do you mean that is right? A I mean I was disappointed. I was not able to pick them out of the line.

Q And you wanted to assist in every way in having justice arrived at?

*Edward J. Gelhart, re-cross.*

Mr. Fisch: I object.
The Court: Sustained.
Mr. McGeehan: Withdraw it.

Q And you are sure now that these were not the men?

Mr. Fisch: I object.
The Court: Sustain the objection.

Q When you went down the men in the line-up were not the men you saw?

Mr. Fisch: I object.
The Court: That is leading.

Q Well, were the men in the line-up the men you saw at the Reid hold-up? A No.

*Re-cross examination* by Mr. Fisch.

Q Didn't you tell us just a minute ago that you did not know whether they were or not? A From the pictures in the paper.
Q And after you had witnessed the line-up, then you told Sergeant Sweeney and O'Malley that you could not say or not? A Yes.
Q And you told them you could not tell that? A Yes, I told them I could not tell them.

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*Frank Cutter, direct.*

FRANK CUTTER, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A Dover.
Q What is your business? A Automobile business.
Q And what do you do in the automobile business? A Sell cars.
Q Yes, but what car do you represent? A The Elcar.
Q And were you connected with the Elcar sales in July, 1926? A What do you mean?
Q Well, did you have something to do with selling Elcars in July, 1926? A I do that every day.

The Court: Just a minute. Listen to the question and then answer the question.

Q And did you do it in July of this year? A Yes.
Q For how long have you been doing it? A About ten years.
Q Now, what is your position with the Elcar Company, if any? A I am an agent.
Q Have you a sales agency? A Yes.
Q Are you the head of it? A Yes.
Q And what territory does your sales agency cover for that car? A The State of New Jersey.
Q Now, you are distributor for the State of New Jersey? Is that right? A Yes.
Q Did you, in the month of July, go to a bank in Belleville with some other persons? A Yes.
Q Who did you meet there? A I met Mr. Max Silverman, is it?

Q Yes. A And his brother and Mr. McFarland.

Q How did you go to the place, to the bank? A We drove up.

Q Eh? A We drove up.

Q Who drove up? A Well, three or four men together.

Q Three or four men together drove up. I didn't ask you how they got up, I asked you how you got to the bank. A I was there first.

Q How did you get there? A I drove there.

Q From where? A Dover.

Q And then they met you there? A Yes.

Q Now, you say three or four men drove up and you say Max Silverman and his brother and McFarland was there. Was another man there? A Another man with a car, yes.

Q Did you know that other man? A No.

Q Do you know him now? A I don't remember.

Q You can't recall? A No.

Q Now, what kind of a car was it? A A Packard.

Q And was it an old or a new car? A New car.

Q Open or closed? A Open.

Q Now, what date was this? A July 19th.

Q Now, have you some way to refresh your recollection as to what that date was? A Yes.

Q How do you refresh your recollection as to what that date was? A Well, Mr. Silverman had a note that was to be discounted, a note that day, and if he had it discounted, he would buy the car, and we went up there to see if he could discount the note.

Q And have you any letter or paper that refreshed your recollection as to what date it was? A The bank has, not me.



Q The bank has? A Yes.

Q Who was it you spoke to at the bank? A Mr. Rose, he is vice-president of the bank.

Q Now, you said something about buying a car, who was going to buy a car from you? A Max's brother.

Q Max's brother? A Yes.

Q And were they going to buy more than one car? A Well, they were to know for good if they could go in the business.

Q Well, was it in conection with the note to be discounted? A Well, they had this note around three or four thousand dollars, and if they got that money, they could do it.

*Cross examination* by Mr. Bigelow.

Q What bank was this? A The Peoples' Bank in Belleville.

Q What time did you get there? A Well, I got there—let me see, around, I should judge, it was about half-past two or two o'clock.

Q What time did you get there? A Well, I got there, let me see, I judge about half-past two, about two o'clock.

Q Do you recall where you had lunch that day? A No, I did not have any lunch that day.

Q You drove down that day from Dover? A Yes, sir.

Q And went straight to the bank? A Yes, sir.

Q Did you get there before these other men arrived or afterward? A No, I got there before.

Q How long did you wait about? A Well, I should judge about a half an hour or so.

Q So that they got there about 3 o'clock? A Well, just before the bank closed.

Q That was the first time you had seen them that day? A Yes, sir.

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JOHN R. CONNORS, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Connors, where do you live? A 88 Bleecker street.

Q How long have you lived in Newark? A Well, this time I have been in Newark about six or seven months.

Q Where did you live before? A Well, I came here from New York City.

Q And since you came here have you been employed by the Hotel Berwick? A I have.

Q What has been your position at the Hotel Berwick? A Night clerk and night auditor.

Q Where is the Hotel Berwick? A 452 Broad street.

Q That is formerly the Continental Hotel? A It is.

Q Corner of what street is that? A Division street and Broad street.

Q What side of the street is that on? A On the right-hand side going up.

Q So it is on the east side of the street? A On the east side of the street.

Q And it is—in what direction does it run from Division street? A The south side of Division street.

Q Now, in your capacity as night clerk have you ever seen the defendant Joseph Juliano at that hotel? A I have.



Q Have you the records of your hotel here? A I have.

Q Have you them or have you given them to me? A I have.

Q I show you what purports to be the register of the Hotel Berwick for July 18, 1926. Is that what it is? A It is.

Q Is that the original book or sheet upon which guests register or write their names? A It is.

Q I call your attention to the word "Thomas Jones, wife, Jersey City," and ask you whether you know who signed that name? A The man that I later found out to be Mr. Juliano.

Q Is that the defendant whom you pointed out? A It is.

Mr. Bigelow: There is no objection to this at all.

Mr. McGeehan: I offer it in evidence.

(The same is received and marked Ex. D. 12.)

Q Now, there appears upon this, so we may understand this clearly, Mr. Connors, besides the names Thomas Jones and wife, or Thomas Jones, wife, Jersey City, "402," what does that refer to? A That is the room number he was assigned to.

Q There is also in the column next to the room number a number with four digits 8000, what does that refer to? A That is the folio card on which their name is carried through in the racks of the hotel and entered into our books from that.

Q And there is next to that number in the column "Time of arrival" "10:00"; what does

that refer to? A That was the time of registration.

Q Now, did the defendant register there before and since as Thomas Jones and wife? A Before I cannot say. He may have after; I remember seeing his face around.

Q You remember seeing his face around? A Yes, sir.

Q Now, do you remember his coming into the hotel that night? A I do.

Q Did he chat with any guest of your hotel, any permanent guest of your hotel? A He did.

Q Who is that man that you remember his chatting to? A A man by the name of Mafie.

Q How do you spell Mr. Mafie's name? A M-a-f-i-e.

Q How long did Mr. Mafie live there? A About six months.

Q Do you know where Mr. Mafie is now? A When he left our hotel he left to go to his home in San Francisco, or in the State of California; I don't know what city.

Q Now, when the record is made in red ink by the ledger number, what does that indicate? A That signifies that the room has been paid for in advance.

Q And do you make up a card or bill or card index record of the payment of the bill? A I do.

Q And when it is paid in advance you make up such a record? A I do.

Q Do you have a paid stamp at your hotel? A We do.

Q Did you stamp your record to show that the charges are paid? A They are supposed to be stamped.

Q Sir? A Supposed to be stamped.



Q Now, I show you a card and ask you whether that covers the guest referred to on the record of entry in evidence? A It does.

Q Is there a number on that corresponding to the number on the ledger sheet? A It is.

Q What is that number? A Room 402, folio number 8000.

Q Was this record made up by you? A It was.

Q And do you know that the entry upon it of the payments and the amount is correct? A It is.

Q What date was that paid or what date was that made up? A That was made up on the 18th; the time or minute I don't know.

Q Now, I notice that the paid stamp upon this "Berwick Hotel, paid," has a date in the center of it, which day appears to be July 17th, partly illegible. Can you explain how that would be there upon a bill made up on the 18th? A The date on the stamp is very seldom pushed ahead. We just use the stamp to signify it is paid; showing that it has been paid.

Q And that card is put in your records; is that right? A Yes.

Q And when it has the date stamped on it is a cancelled bill? A Yes.

Q And the clerks sometimes do not turn it ahead? A They sometimes do not turn it ahead, and sometimes do not even stamp it.

Q Now, in red ink, under "arrived" and under "date" is 7-18. Is that made at the time you entered this card? A Yes.

Q Is the card made up before that? I mean the card showing room number and amount and date? A That is all made up at once.

(Paper offered in evidence and marked Exhibit D. 13.)

Q Now, is there a record kept at your hotel of telephone traffic from your hotel? A Yes.

Q And what 'phone calls go through the switchboard? A They do.

Q And are charged or paid after? A Well, it depends. In this case they would not be charged. They would be paid, collected immediately.

Q But they would be entered on the telephone sheet? A They would.

Q Now, does your telephone record at the Berwick Hotel show a number called, the time, hour and minute it is sent? A It does.

Q The amount collected? A It does.

Q The room it is sent from? A It does.

Q And the number that is called up? A It does.

Q And is this the record of the Berwick Hotel for the month of July 19, 1926? A It is.

Q Are there two 'phone calls made by the defendant or made out of the defendant's room on that morning?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q This is the original entry, is it, of 'phone calls? A It is.

Q And this is not written up by you? A No, it is not. At night, when I am on duty after eleven o'clock, it is made up by me.

Q But in the morning it is not made up by you? A No, it is not.

Q Now, has my office made inquiry of you as to who the telephone operator was on duty on the 19th of July? A That they made from me?



Q Well, was it with you that the inquiry was made? A I do not think so.

Q There was a girl there? A At that time there was.

Q At what time? A At the time the 'phone call was made.

Q What time was the 'phone call made?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q You were not there at the time it was made? A I was not.

Q You were on duty only nights?

The Court: Just a minute. Whatever he knows about this 'phone call manifestly is hearsay.

Q Were you on duty only nights? A Yes, only at night.

Q Were you on duty on the morning of July 19th? A Only until seven o'clock.

Q And there appears upon these three sheets—

Mr. Bigelow: I object to what appears.

Mr. McGeehan: You will not object to this.

Q The name G. Barton as attendant—I will withdraw that. There appears upon two of these sheets the name G. Barton and on another D. Stanley. Do you know whom those names apply to? A They were the telephone operators' names.

Q Was Miss Stanley a regular employee at the hotel? A She was.

Q Was Miss Barton a regular or temporary or substitute operator for the hotel? A She was a regular operator.

Q Was Miss Barton a regular operator? A She was.

Q Do you know her present address? A She is out of the city. She is in the West somewhere.

Q Miss Barton is? A Yes.

Q Do you know where in the West? A No, but I think someone in the hotel may be able to tell you where.

Mr. McGeehan: I hand these to the prosecutor to use in cross examination though they are objected to.

Q Now, these records are the original records and telephone list at your hotel? A They are.

Q By the way, prior to the time the record of the Hotel Berwick was subpoenaed by the defense, were representatives of the prosecutor's office or detectives from headquarters examining the records of the Berwick? A They were.

Q And were they shown these records when they came there? A They were.

Q And were they shown the telephone sheets that I handed to the prosecutor? A They were.

Q That is before they were subpoenaed by the defense? A They were.

The Court: You say there were two people in that room, 402?

Witness: Yes, sir.

Q That was this defendant Joseph Juliano and a woman, is that right? A Yes, sir.



Q Who had registered as Mr. and Mrs. Thomas Jones? A Yes, sir.

Q Do you know whether there was any room service given to that room after the parties checked in at ten o'clock? A Do I know?

Q Do you know whether there was any room service given to the occupants of that room after they came in at ten o'clock? A There was.

Q What makes you remember any room service, Mr. Connors? A Well, someone in the room, I just can't remember which party it was, flickered the telephone switchboard which attracted my attention to them and I scolded the party for flickering the telephone, I was busy at the time, and if you take a telephone receiver and pull it up and down on the buzzer the sound is very annoying, and I went to the telephone and asked them wouldn't they be kind enough to wait we were very busy and they said they wanted a bell hop to go out and get some sandwiches, and I said, "All right, I will send a bell hop to the room" which I did.

Q Who was the bell hop that night? A Paul Smith.

*Cross examination* by Mr. Bigelow.

Q You say that you scolded that party that flickered the 'phone up and down? A Yes, sir.

Q Did you get any come back? A No, sir.

Q You were not balwed out for scolding them or anything of that sort? A No, they just asked me whether I would please send out for sandwiches for them.

Q Do you recall what hour that was? A No, I do not.

Q It was sometime while you were on duty that night? A It was between the hour of 10:30

and 1:30 at night, because that was the time that bell hop went home 1:30.

Q The time what? A The time that bell hop went home was 12:30, it was between 10:30 at night and 12:30 at night.

The Court: You didn't mean 1:30?
Witness: 12:30.

Q He went home at 12:30 and not 1:30? A Yes, sir.

Q What time did you come on that evening? A Seven o'clock.

Q And you went off at seven the next morning? A Yes, sir.

Q And when you say the defendant Joe Juliano, I understand you mean Big Joe, the first defendant this way? A Yes, sir.

Q Did you see whether he went up to his room at ten o'clock or didn't you notice what became of him after he registered? A After he registered I think he stayed talking to Mr. Maffie.

Q Did you see the lady? A No, sir, I did not.

Mr. Bigelow: I suggest you have these papers marked for identification, we may consent later to have them go in.

(Papers are marked D. 14 for identification.)

*By Mr. McGeehan.*

Q Now, I don't want you to read any numbers, but I want you to look at D. 14 for identification and I want you to see if that which is handed to you is the same paper and with the same numbers on that existed as part of the



record of your hotel and that you have referred to previously? A It is.

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PAUL SMITH, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q What was your occupation in July, 1926? A Bellman.

Q At what hotel? A Berwick.

Q Do you still work there? A Yes.

Q As a bellman? A Yes.

Q How long have you worked at the Berwick Hotel? A Since last January.

Q January, 1926? A Yes.

Q And do you remember serving in your capacity as bellman in any respect any one of the defendants in this case? A I do.

Q Which one? A The second there.

Mr. McGeehan: Stand up.

(Indicating the defendant Joseph Juliano.)

Q Do you know what name he registered at the hotel as? A Thomas Jones, I believe it was.

Q And when did you see him on the night—when did you see him there? A Why, I believe I was in the lobby when he came in.

Q And do you know the date, without referring to the hotel register? A The 18th.

Q You know that, do you, from having examined the register? A Yes.

Q Is there anything else that fixes in your mind what occasion this was? A No, not necessarily.

Q Now, were you called at that time—until what time were you on duty that night? A Well, I worked extra that night. I think at 12:30, I believe it was.

Q And when did you go on duty next? A Seven in the morning.

Q So you were on duty until 12:30 at night and back again at seven o'clock until what time? A Twelve noon.

Q Did you render any service that night? A I did.

Q To this defendant? A I beg your pardon.

Q To this man? A Yes.

Q What did you get him? A Some sandwiches.

Q Where did you go for them? A Across the street, to the lunch room directly across the street.

Q Do you know just what time that was? A Well, I have it in the book.

Mr. Bigelow: Well, I assume the witness is testifying from memory and not from having read some record in the last few weeks.

Q You only know from the books the time, is that right? A The time, yes.

Q Now, do you, as a bellboy at the hotel, keep what is known as a bellboy's book? A Well, just a record of what we do.

Q Now, do you make entries in a book in lead pencil? A Yes.

Q Under a heading Paul and Red. Is Red another bellboy? A Yes.

Q And do you make those entries at or around the time you render the service? A Yes,



unless we are busy and do not have a chance to put it down until later.

Q But you do make entries of what you do? A Yes.

Q Sometimes do you fail to make an entry when you do something? A Yes.

Q But did you ever make any entry when you have not done a thing? A No.

Q Now, have you a memorandum in your handwriting of services rendered to room 402 on that night? A Yes.

Q How many other entries are there of various rooms on that page; I mean roughly? A Four.

Q Eh? A Four rooms, or five. I was busy that night and did not have a chance to put all of the rest of them down.

Q No. I say how many entries are there on that page by you? A About ten.

Q And do you find such entry referring to room 402? A I do.

Q Will you look at it? Does that refresh your recollection at the present time? A Yes.

Q And when you entered that, did you know that to be so? A Yes.

Q Now, referring to that, will you tell us what hour and what time you rendered outside service for the defendant or for room 402? A Between 10:40 and 10:45.

Q What night? A July 18th.

Q On July 18th? A Right.

Q Now, does your record show what you bought and what you went out for? A No, sir. Just outside service.

Q And by outside service you mean running outside of the hotel to get something for someone, is that right? A Yes.

Q And did you have any reason to remember the defendant in connection with the outside service? A Yes. Well, I know he gave me a liberal tip.

Q And bellboys remember liberal tippers, do they? A Yes.

Q Now, you went on duty again the next day —you went out for those sandwiches? A Yes.

Q Where did you bring them to? A To room 402.

Q And this defendant received them from you? A Right.

Q The next day you went on duty at 7 o'clock? A Right.

Q Were you there when the defendant checked out? A I was.

Q Did you go to any automobile with him?

Mr. Bigelow: I object. That is leading.

Q What did you do in connection with his checking out? A Why, I took the bag out for him.

Q Where? A Out to the car, outside.

Q And was there anyone at the car outside? A There was a young lady sitting in the car.

Q What time was that? A Oh, I cannot recall the time.

Q What time did you go off duty? A 12 o'clock.

Q 12 o'clock noon time? A Yes.

Q That is, on July 19th? A Yes.

Q Can you tell us about how long, if you remember, it was, before you went off duty, it was that he checked out? A I could not say as to that.

Q But you know it was before 12 o'clock? A Yes.





*Cross examination* by Mr. Bigelow.

Q I did not get your name when you were first sworn? A Paul Smith.

Q How long has it been, how many days about that you have remembered seeing this defendant check out? A Well, I remembered him as soon as I seen his picture.

Q When did you see his picture? A Why, it was shown to me by this man here.

Mr. McGeehan: Indicating who?

Witness: The third fellow.

Q Lieutenant Linarducci? A Yes, sir.

Q And as soon as you saw his picture you remembered checking him out that day? A Yes, sir.

Q Was Detective Kenny with Lieutenant Linarducci? A He was.

Q Where was this? A At the Berwick Hotel.

Q When? A I cannot say as to that, three or four weeks ago, I believe.

Q Well, now, didn't you tell Linarducci, Lieutenant Linarducci and Detective Kenny that you did not recognize that picture? A That I did not recognize it?

Q That you did not recognize it? A I did recognize it.

Q Didn't you tell them that you did not recognize the picture? A No, sir, I told them I recognized the picture.

Q You are sure of that, are you? A Positively.

Q Didn't you also tell them that you did not remember anything about this man being in the hotel except that he checked in? A That was

before I seen the picture, I am positive of that, but they were asking me them questions and when they showed me the picture I don't remember they asked me any questions after they had shown me the picture.

Q When was that you first saw them? A I cannot recall now, I judge about three or four weeks ago.

Q About three of four weeks ago they questioned you the first time? A Yes, sir.

Q And at that time you told them you remembered taking these people up to the room and did not remember anything else? A I did.

The Court: What was that question?

(Last question and answer read.)

Witness: I did, but I had no idea who they meant at the time, I had not seen the picture of the fellow they were describing.

Q Although you didn't have any idea who they were talking about you told them that you remembered taking him up to the room? A I did not say I remembered who I took up to the room, I knew I took somebody because I had it listed in the book there, I did not say I had any description of who I took up.

Q You had it listed in what book? A This book here.

Q The book that is in front of you? A Yes, sir.

Q Do you mind turning to the entry? A Yes, I have it here.

Q And you remember taking a person or persons up to the room as indicated in your book when you saw these detectives? A Yes, sir.



Q And you told them that you remembered that? A That I remembered taking somebody up but as to who it was I didn't know.

Q Did you also tell them that you remembered this service item? A I cannot recall as to that. I did say something was on the book there at that time and they asked me what I did, what I had gotten them and I said I didn't know at the time what I had gotten them.

Q Didn't you tell them while it was on the book you did not remember anything about it? A No, sir.

Q When did they show you these pictures? A I don't recall whether it was the same day or a day later, they were up several times.

Q And the 2nd or the 3rd or the 4th or the 5th time they showed you some pictures? A I believe they did.

Q How many pictures? A I only saw one picture with the four defendants on the picture.

Q You recognize one of these men as the man who you had taken up to the room that night? A Yes, sir.

Q When did you take him up to the room? A I don't remember, at rough guess, it is on the book.

Q What is your memory on it? A Between 10:30 or 10:20, something like that.

The Court: Is this the item here 11:30?

Witness: No, that is 10:30 or 10:35.

Q Now, after you saw this picture you remembered distinctly taking this man up to the room? A I certainly did.

Q Was he alone when you took him up? A No, sir.

Q The lady was with him then? A Yes, sir.

Q How long was it after that that you rendered this outside service for them? A Well, according to the books—

Q I am not asking you according to the books, I am asking you according to your memory? A I don't recall, it might have been a short while after or a long while after, because I was busy that night, 10:40 it is there, it may have been later because I jotted it down from memory.

Q How much longer from memory, two or three hours? A Maybe it was.

Q And when you put it down you put it down from memory? A Yes, sir.

Q Do you remember now your act in putting it down? A No, I can't say I did.

Q Why do you say that you put it down later, then? A I put it down, I remember, but I don't know what you mean by the act of putting it down.

Q Do you remember putting it down at all? A I remember putting it down later but I don't know what time it was.

Q You remember that you put it down? A Yes, sir.

Q You remember that distinctly? A Yes, sir.

Q Do you remember what kind of a pencil you used in putting it down? A No, sir.

Q Do you recall what kind of a pencil you used when you put it down? A No.

Q Do you recall anything about it? A No.

Q Do you recall where you were at the time? A When I put it down?

Q Yes. A Down in the lobby.

Q And was Red with you at the time? A I don't believe he was. I probably put it down before he came in.



Q When did he come in? A Why, about 12:15, I should judge.

Q And you probably put it down before he came in? A Yes.

Q What did you put down? A No bag.

Q That was the entry of the arrival of these guests. Did you make an entry of their leaving? A No.

Q They left while you were on, you say? A Yes.

Q Did you tell Mr. Linarducci or Mr. Kenny that you remember their leaving when they showed you this photograph? A I believe I told them I took something out to the car on the outside.

Q Did you tell them what car it was you were referring to? A No, I told them it was an open car about the size of a Studebaker.

Q You told these two detectives that there was an open car about the size of a Studebaker? A Yes.

Q And you took two bags out there? A I took something out; I think it was a small light bag.

Q Did you tell them when it was taken out? A No.

Q You did not tell them whether it was that day or some other day? A I told them it was the next day.

Q Did you tell them that the defendant went out then, this man whose picture they were showing you? A Well, I remember coming up from outside; he was just stepping off the elevator and gave me the bag.

Q Did you tell these detectives anything? A No, I didn't tell them anything then.

*Paul Smith, cross.*

Q What do you mean by that, the then that Mr. McGeehan wants you to explain? A I beg your pardon.

The Court: What did you mean by then?

Witness: Well, they asked me at one time if I knew anything about it before I seen the pictures. I didn't.

Q They asked you several times? A Yes, they did.

Q What did you tell them at any time? A I believe I told them I remembered taking something out to the car.

Q Did you tell them you had anything to do with this man that registered as Jones? A Yes, I believe I did. I would not say positively. That is who I understood they were talking about at the time.

Q Who else did you tell about taking something out to the car and remembering Jones leave?

Mr. McGeehan: I object.

The Court: Sustain the objection.

*By the Court.*

Q Your name is Smith? A Yes.

Q You say you remember taking a bag out to the car the next day? A Yes.

Q Where did that bag come from? A Why, they had a light bag when they went up the night before, but I didn't put it down. That was my error.

Q Did you make this error yourself? A I did.

Q Did you make an entry and then correct it? A No, I didn't touch it.



*Paul Smith, cross.*

Q Did you make any erasure on that? A No.

Q Is there an erasure there? A I have not touched it.

Q No, is that an erasure? A I don't know. It looks like it. There is a lot of times we make a mistake and erase them out.

Q That is what I wanted to know. I wanted to know if this is what refreshes your recollection as to carrying the bag out? A No, I am not referring to that. I remember the next morning. I remember it is so.

Q Then you are not relying on this to refresh your recollection as to whether he had a bag? A Not the night before.

Q Now, did you take a bag in the night before? A I believe I did and I didn't put it down.

Q And you put no bag? A No bag.

Q Didn't you testify that you examined this book? A At what time?

Q At any time? A Yes, I did.

Q Well, then, you have, in a measure, relied on this to refresh your recollection? A No, not on that book as to coming in.

Q Did you put any record in this book and then erase it? A No.

Q Well, isn't there an erasure there? A Maybe there is.

Q Well, I am asking you, is there an erasure there? A It looks like that to me.

*Cross examination* (continued) by Mr. Bigelow.

Q Did you make the erasure? A No.

Recess from one to two P. M.

AFTER RECESS.

Continued pursuant to adjournment.

Present, counsel as before stated.

PAUL SMITH resumes the stand.

*Cross examination* by Mr. Bigelow (continued.)

Q Mr. Smith, is this the photograph that Lieutenant Linarducci and Detective Kenny showed you? A Yes, sir.

Mr. McGeehan: Referring to what exhibit?

Mr. Bigelow: I ask that it be marked for identification.

(Same is marked S. 26 for identification.)

Q Did not Lientenant Linarducci showing you this photograph call your attention to the fourth figure, the one under the marking "No. 4" and ask you whether that was the man who registered under the name of Jones and didn't you reply to him that you did not know, that you did not recognize him? A He asked me if I could identify him and I pointed out this fellow here (indicating Big Joe Juliano.)

Q That is the man in the photograph over the figure 4? A Yes, sir.

Q Then, as I understand it, you say that you did not tell these detectives that you were unable to recognize him? A Well, I told them that I had seen him around there several times, that's all I told him.

Q Do you now say that you did not tell those detectives that you were unable to tell whether



the man shown in this photograph was the man who was in your hotel on the 19th of July under the name of Jones? A I don't recall that.

Q And after being shown this photograph and having your attention called to Juliano's picture didn't you tell those detectives that you had no remembrance of his checking out? A I don't remember that I did, I don't remember that now.

Q Well, do you remember this checking out? A I do.

Q Didn't you tell these detectives that you didn't remember his checking out? A I don't recall whether I did or not.

Q What time did you come on that morning? A Seven o'clock.

Q And you were on until twelve? A Yes, sir, twelve.

*Re-direct examination* by Mr. McGeehan.

Q Mr. Smith, do you remember about when it was that the detectives came to you, about how long ago was it? A Well, I should judge about three weeks ago, something around that, I am not positive, I would not say positively, but around that, I believe.

Q Now, what is the purpose of the keeping of the record that you referred to, what is the chief purpose of it? A Well, in case they wish to look anything up, why, you have it right down there in the book.

Q Do your duties include the watching of or reporting of the removal of bags from a room? A Yes, sir.

Q And has that reporting of bags anything to do with the time that guests pay for the

rooms? A I beg pardon; I did not get that question.

Q Has the reporting of bags that you make anything to do with the payment of a bill by a guest? A Well, not unless I am called to bring the bags down, then I just say "Checking out."

Q And who watches the room to see that the bags are not taken out without paying the bill? A That is my job.

Q When a bill is paid in advance have you any responsibility then with respect to bags and rooms? A No, if we know they are paid in advance it is all right, but we are supposed to watch them anyway, because we don't always know.

Q But if you know they are paid in advance do you have to keep watching any bags? A Well, I just say, "Such and such a room checking out."

Q When a room is paid for in advance do you have to watch and see that the bags are not removed without the paying of the bill? A Paid for in advance?

Q Yes. A Yes, we have to watch them anyway.

Q That is, you have to watch the room, but when a room is paid for in advance is there any report that you have to make of the removal of a bag outside of the beginning of service to the guest that you do make? A I could bring a gentleman up to a room and not know that he had paid in advance, but if I am on the next morning I ask if it is O. K.

Q When you know that a man has paid in advance do you ever enter "no bags?" A Yes, or "paid in advance."



Q And one is the same as the other? A Practically.

Mr. Bigelow: I object.

Mr. McGeehan: I withdraw the question.

Q As a memorandum to you, does one mean the same as the other to you?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, will you turn to the entry that you looked at before. Now, the entries of the rooms, Paul 301, 302 and Paul 402, a number of marks there are soiled, arn't they, or physically marked? A Yes.

Q Was that pointed to and looked at by a number of detectives and yourself when they first came there? A I couldn't say that.

Q Well, did you have your book out with the detectives? A Yes.

Q Were the entries in there at the time the detectives looked at them? A Yes.

Q Were they the same as they are now? A Yes.

Q Was a note made of these entries by the detectives? A I could not say as to that.

*Paul Smith, re-direct.*

Q Was any change made in any of the figures upon this paper? A No, sir.

Q Where is what the Court called your attention to? A This here.

The Court: Just as to the words "no bag."

Q As to the words, "No bag" and underneath that entry is there an entry that calls three—what does that under that mean? A Round.

Q The same condition exists there as above it? A Yes.

Q Was there any erasure at the time of 10:30 and 10:35 as to both of those entries? A Not on my part.

Q Well, where the Court pointed out to you, is there any entry as to the hour? A 10:35.

Q And what is before it? A 10:30.

Q Now, you have a number of entries under the heading, Paul, July 18, 1926, haven't you? A Yes.

(Book offered in evidence and marked Exhibit D. 15.)

Q And the point of erasure is the dirty spots—am I pointing to the point that your attention was called to by the Court? A Right there.

The Court: It is the line before 402.

Q There is a line and in the middle of that there is contained "No bag." Now, there is no erasure of the time or the number of the room? A No.



*Paul Smith, re-cross.*

Q Do you know if that is an erasure or the result of pointing it out and fingering that? A I could not say. That book is handled by more than myself. It is lying right on the counter there.

Q And that had been turned to a number of times? A Yes.

*Re-cross examination* by Mr. Bigelow.

Q Did you say that you didn't know whether the detectives had made a copy of this entry? A I didn't know.

Q You didn't know? A No.

Q You were not sure about it? A Well, they did not make any entries as far as I know, indicating that to me.

Q What? A They did not make any entries, as far as I know.

Q You knew that they had seen it? A Yes.

Mr. McGeehan: May I say at this time that I have this noontime learned the residence of the young lady who was referred to in the testimony as a 'phone operator. She is in Cincinnati, Ohio. I will send out for her, if necessary. I will have to do it now, though, to get her here. If the prosecutor is going to consent to the record going in, I will avoid the necessity of getting that girl all the way from Cincinnati.

Mr. Bigelow: My off-hand impression is that I would like to have the young lady here. I think that she might be able to give some light on this matter for the jury.

Mr. McGeehan: Well, she is not subject to a subpoena of the court, and it means a

great deal of effort and work to try to get her here. If we are successful, we would like to have her here, but it is a day and a half's trip, and I would like to get somebody on the way immediately, but I do not like to do that if the prosecutor will consent to the telephone record.

Mr. Bigelow: My present impression is that, as I said, she ought to be brought.

Mr. McGeehan: Well, then, the prosecutor will not consent to that phone record going into evidence without her presence here?

Mr. Bigelow: I do not know whether I will or not.

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JOSEPH JULIANO, defendant, sworn in his own behalf.

*Direct examination* by Mr. McGeehan.

Q Juliano, you are one of the defendants in this case? A I am.

Q And your name is Joseph Juliano? A Yes.

Q You have been referred to in the testimony as Big Joe? A Yes.

Q Hold old are you, Juliano? A Thirty-six.

Q Will you talk just a little louder? A Thirty-six.

Q Is your hearing good? A No, I have a cold. I am a little hard of hearing.

Q You are thirty-six years of age? A Yes.

Q Where do you live? A 260 Eighth avenue.



Q Are you married or single? A I am not married.

Q You are a single man? A Yes.

Q Never been married? A No.

Q How long have you lived in Newark? A About thirty-five years.

Q Practically all your life? A When I was eleven months old I came from Italy, that would make it thirty-five.

Q And always have lived in Newark? A As far as I can remember I have.

Q Except for absences—I mean this has been your home? A Yes, it has been my home all the time.

Q You have been convicted of crime? A I have.

Q Juliano, you know the defendant Capozzi, do you not? A I do.

Q And you know the defendant Barone? A I do.

Q How long have you known him? A Well, I have known Barone a number of years.

Q How long have you known the defendant Capozzi? A Well, I should judge three or four years, five, maybe.

Q And are they good friends of yours? A They are.

Q Do you go about with them? A I do.

Q Have you done business with them? A I have.

Q What business have you been engaged in or how did you make your living in the last few years? A Bootlegging.

Q And have they engaged in bootlegging with you? A They have.

Q Do you know the defendant Little Joe Juliano? A I do.

Q Or Joseph Nicholas Juliano? A I do.

Q Is he a distant relative of yours? A Yes, sir.

Q What is his relationship, do you know? A Third or fourth.

Q Third or fourth what? A Relative.

Q Third or fourth relative? A Yes, sir.

Q By that do you mean third or fourth cousin? A I suppose so.

Q Do you know how he is related to you, can you tell that, do you know that? A I do. He carries the same name as I do, I suppose, from generations down.

Q You don't know just what relative of yours he has carried it from, do you, so as to form the connection? A I do not.

Q But you know there is some relationship? A Yes, sir.

Q Did you ever associate with, hang out with, or go around with Little Joe Juliano? A I did not.

Q Where did you spend most of your time downtown? A On Market street, Washington street, Branford and Treat place, right around the four corners.

Q And did you hang out in Treat place? A Yes, sir.

Q Where did you hang out in Treat place? A Eighteen.

Q Whose place is that? A I think it is a fellow named Solly—Klein's.

Q Well, it is also known as "Horse Klein's?" A Well, I heard that, I ain't sure, I ain't positive.

Q Solly is the proprietor? A That is who I see there.



Q Who of the other defendants hung out with you there? A Capozzi and Barone.

Q Did Little Joe Juliano ever hang out there? A Never seen him.

Q Never saw him there? A Never.

Q Do you know the witness Boudreau? A I never seen him until I got arrested.

Q Never saw him until you got arrested? A Yes, never seen him until I got arrested.

Q You saw him after you were arrested, didn't you? A Yes, sir.

Q Was that the first time in your life that you had ever seen him? A Yes, sir.

Q Have you ever been out with him anywhere? A Never.

Q Did you ever hang out any place where he did? A Never.

Q Had you at any time ever been introduced to him? A Never.

Q Did you frequent Huber's Baths? A Yes, sir.

Q How often did you go there, about? A Quite often.

Q About how often, every week or three times a week? A Sometimes two times a week, sometimes three times a week and sometimes all week.

Q And in going to Huber's Baths did you know the colored man who was on the stand and testified? A I did.

Q What is his position there? A He shines the shoes, what you would call a porter.

Q Did you ever take a revolver into Huber's Baths or revolvers and give them to him for you? A I did not.

Q Did you ever give him anything wrapped up in a towel or a cloth or anything to keep for you? A I did not.

Q Do you know a girl by the name of Catherine D'Amato? A I do.

Q And what relationship is Catherine D'Amato to Little Joe Juliano? A Sister.

Q Is she a single girl or what? A Widow.

Q And was her married name D'Amato? A Yes, sir.

Q Did you go out with her frequently? A Yes, sir.

Q Did you ever go out with her in the company of her brother? A I don't think I ever did.

Q Did you ever visit her home? A I did not.

Q Did you go out with her a great deal? A I did.

Q I show you Exhibit D. 12. First, have you ever registered at the Berwick Hotel? A I did.

Q What names have you registered there as? A Thomas Jones, Thomas Henry and other names which I just don't remember.

Q When you registered those names you were with a girl? A Yes, sir.

Q I show you Exhibit D. 12 and ask you whether that is your signature? A Yes, sir.

Q Will you write "Thomas Jones and wife, Jersey City?" Write it two or three times. A (Witness writes as requested.)

Mr. McGeehan: I offer in evidence the paper that the witness has just written upon.

Mr. Bigelow: No objection.

(Same is marked Exhibit D. 16.)

Q Did you register at the Berwick Hotel on the night of the 18th of July? A I did.



Q Did you sign the register that I just showed to you? A I did.

Q Who was with you when you registered there? A Kathleen D'Amato.

Q And what time approximately did you go to the hotel that night? A Oh, I imagine it was between ten and eleven; ten-thirty; I just can't tell you exactly.

Q That was Sunday night? A Yes.

Q Where did you go after you registered? A I stood downstairs and talked to some fellows that I met in there I knew.

Q Who was the fellow that you saw and knew? A A fellow by the name of Gabriel Matti.

Q Now, where did you go in the hotel? A I went upstairs in the elevator to the room.

Q Who did you go up with? A Kathleen DeMotto.

Q And do you or don't you remember what room you were in? A I do not remember. I heard them say 402, that must be the one.

Q You heard them say in court here? A Yes.

Q But outside of that you do not remember the room? A No.

Q But you went to the room in the Berwick Hotel? A Yes.

Q After you got up to the room did you do anything in the way of ordering any service? A I think I did.

Q What do you think you did? A I think I ordered some coffee and sandwiches.

Q And do you know who brought them to you? A The bellhop.

Q Do you know about how long that was after you got up in the room? A Well, I

would say two or three hours; four; I don't know.

Q You do not remember that? A Not positive.

Q It might have been less or more? A Maybe.

Q But you know it was after you were in the room? A Yes.

Q Now, how long did you remain there at that hotel? A Until the next day.

Q What time? A I think I left there at about 11:25 or 11:30; I am not sure.

Q And that is the time you left the hotel, is that right? A Yes.

Q Before you left the hotel, do you know how long you had been awake? A Well, I should judge an hour and a half or two hours.

Q During the time that you were awake, before you left the hotel, did you make any telephone calls from that room? A I did.

Q How many did you make? A Two.

Q Whose number is Humboldt 2842? A My mother.

Q And where is your mother's place? A 260 Eighth avenue, her home.

Q Did you have any man working for you during the month of July and August driving a car for you and your family? A I did.

Q Who was he? A A little boy named Tony Grande.

Q Has he a brother? A I do not know if he has.

Q Whose telephone number is Mitchell 0936? A Angelo Grande.

Q He keeps a place where? A At 36 Drift street.



Q And did you make a telephone call to his place on that day? A I did.

Q Who did you make those 'phone calls through, or how did you call that number and where from? A From the Berwick Hotel.

Q From where in the Berwick Hotel? A From the room.

Q And who did you give the number to when you called them? A You are supposed to give them downstairs to the operator.

Q Well, who did you give them to? A I don't know who got them.

Q Well, in calling the number, you took up a receiver? A I did.

Q And what voice answered when you took up the receiver? A I cannot remember that, whether it was a young man or a young lady.

Q But you called it through the hotel? A I did.

Q Now, do you know what time in the morning you made your call to your mother's house? A That was the first call I made.

Q What time was that? A Well, I would not exaggerate. It must have been between 9 and 10.

Q Between 9 and 10 o'clock. Do you know how long before you left it was that you made the next call to Grande? A Well, I should say just a little before I left.

Q A little before you left? A Yes.

Q What were you calling your mother for?

Mr. Fisch: I object.

Mr. McGeehan: Question withdrawn.

Q Who spoke to you on the 'phone when you called your mother up? A My sister.

Q What is your sister's name? A Mrs. Perrotti.

Mr. McGeehan: Is Mrs. Perrotti here?

(A voice in the audience answers in the affirmative.)

Q Is that your sister (indicating a woman in the audience?) A Yes, sir.

Q You spoke to her, did you? A I did.

Q What did you speak to her about? A I asked her if they wanted to go down and get the rooms—

Mr. Fisch: I object to what he asked her.

The Court: I will allow it, it is corroborative of him being there.

Witness: Can I answer?

The Court: Yes.

Witness: I asked her if she was ready or mamma was ready to go down to the seashore to go down to get rooms for a couple of weeks, three weeks.

Q I didn't get that. A I asked her if she wanted to go that morning to go and look for rooms down at the seashore, that my mother was to go down there on her vacation.

Q Now, after having a conversation with her you say you called up this other number? A I did.

Q Who were you looking for at that other number? A I was looking for that little Tony Grande.

Q Is he the boy that was driving your car during that month? A He is.



Q What did you want to get Tony Grande for? A So he could drive my people down to the shore.

Q Did he drive them down there? A The next day.

Q And who went down, if you know, to the seashore the following day driven by Tony Grande? A I think my sisters went down there.

Q Your sisters? A Yes, sir.

Q Do you know whether your mother went, too? A I don't know, I wasn't there, I left the car there on July 19th in the evening.

Q Who did you leave it with? A I left it up with my mother, near my house.

Q With who, who did you leave your car with on the night of July 19th? A My mother, in front of her house.

Q Who did you give it to to drive? A I told Tony Grande to bring my folks down to the seashore on the 20th, which I asked them to go down on the 19th, and that is why I called them on the 19th if they wanted to go, so I gave him $10 for expenses to go down on the 20th.

Q Now, you left that hotel, I think you said, sometime around 11 or 11:30, did you say? A Yes, about 11:35 or 11:30 I said.

Q When you left that hotel where was your car? A Why, the side street, I don't know whether they call it Lackawanna avenue or Division street, I am not sure.

Q Well, was it right alongside of the Berwick Hotel? A That would be going out to the front of the hotel then you turn at the front door to your right.

Q That is, if you went past the hotel you would turn to the right at the first corner? A Going out of the hotel you turn to the right, going north the first block.

Mr. McGeehan: Can we agree that that is Division street?

Mr. Bigelow: Is that between the hotel and the freight yards?

Mr. McGeehan: Is there a brick wall there?

Witness: Yes, sir.

Mr. Bigelow: Yes, Division street.

Q Now, you left your car there, did you? A I did.

Q The night before? A I did.

Q When you came out of the hotel who came out with you? A I don't remember whether I came out alone or with a young lady.

Q But before you left the hotel room who was in the room with you? A Catherine D'Amato.

Q Did you or she at any time go out of that room from the time you went into it the night before? A No, sir.

Q When you went to your car who was with you? A Catherine D'Amato.

Q Do you know whether you both came down in the same elevator or not? A I don't quite remember, it is about three or four months ago and I go there so often.

Q Do you remember whether you had a bag with you or not on that occasion? A I am not positive of that if I did or did not.

Q Do you know whether the bellboy was at your car when you were leaving there? A I don't remember that either, it is possible that he was.



Q You don't remember the bellboy at your car? A I do not.

Q But you do know that you entered the car with Catherine D'Amato on the Division street side of the hotel? A I do.

Q Now, do you remember what you did when you drove away from there? A I do.

Q What did you do? A I started the car and turned around and backed up and then over Division, across Broad.

Q Which way did you intend to turn on Broad, and which way did you turn on Broad? A I didn't turn on Broad. I went straight out Division to Lackawanna avenue and at the corner of Lackawanna avenue and Broad I met someone.

Q Division street is at right angles to Broad? A Yes.

Q Now, you turned your car around? A I did.

Q That would make you facing west, is that right? A Yes.

Q Now, where did you intend to drive from there; first of all, which way were you heading for? A I was heading for Clifton avenue.

Q What street were you going up? A Lackawanna avenue.

Q Lackawanna avenue? A Yes.

Q And therefore, went across Broad street, is that right? A Yes.

Q And that would be in what direction, east or west? A West.

Q Now, who did you say you met as you were going across there? A A young man by the name of Frank Amore.

Q Do you know where Frank Amore works? A Armour & Company.

Q Where is that? A Right off the corner of Broad and Lackawanna avenue.

Q Is that Mr. Amore? A Yes.

Q Did you know Mr. Amore pretty well? A Yes.

Q Do you know his wife? A I do.

Q And he knew you? A I think he did.

Q Eh? A I should think he does.

Q You have been out with him a good deal? A Yes.

Q And does he know Kathleen D'Amato? A Yes.

Q And have you and Kathleen and his wife and you been out together already? A We have.

Q What did you do when you saw Frank Amore? A I pulled close to some cars parked there and he asked me when I was going down to the shore and I told him I was going the first part of next month, which would have been August.

Q You told him you were going down the first part of August? A Yes.

The Court: Which would have been August.

Q Do you remember talking about anything else with him? A No. He just asked me when I was going down to the shore.

Q Well, all you remember talking about was the vacation? A Yes.

Q Did you have any conversation lasting any length of time? A No.

Q How long were you standing there talking? A Just asked me about that.

Q Well, how long were you standing there talking? A I would say a minute; maybe less than that.



Q And did you drive away then? A Yes.

Q Where? A Straight up Lackawanna, over High, up Lackawanna again up to Nassau, over Nesbitt, up Eighth avenue and over Clifton to the corner of Drift and Clifton avenue.

Q Where did Kathleen D'Amato live? A She lives in Aqueduct alley.

Q Where is Aqueduct alley with reference to Drift street? A That connects a block before the one I had to stop at.

Q No, where is Aqueduct alley with reference to Drift street, how near is it to Drift street? A Oh, I guess 200 feet, 150.

Q Well, is it one block? A Aqueduct alley is between Drift and 8th avenue, off Clifton.

Q How long have you lived in that neighborhood yourself? A Oh, about twenty-five, twenty-eight or thirty years; I just can't remember.

Q Now, where were you taking Kathleen D'Amato? A Taking her home.

Q And where did you leave her off? A On the corner of Clifton avenue and Drift street.

Q How close to her house is that? A It would be just a little walk.

Q Well, about how far? A Well, she generally goes down Drift street and out of Drift street you go through one hall to the alley.

The Court: Does she live on Aqueduct place?

Witness: Yes. You could go to Drift street to Aqueduct alley. Both houses connect.

Q Do you know where she entered on Drift street? A Yes.

Q How far is it from Clifton avenue? A Well, I should judge fifty or seventy-five, about

one hundred and fifty or one hundred and twenty-five feet.

Q About 125 feet you left her off from her corner? A Yes.

Q Now, did you see Tony Grande there at all at that time, or did you look for him? A I don't quite remember whether I seen him then or not.

Q Well, do you know whether you made any inquiry for him or did you see Tony? A I did ask for him.

Q You know you asked for him? A Yes.

Q You do not remember whether you saw him or not then? A I do not quite remember.

Q Now, after leaving Kathleen D'Amato off at Drift and Clifton did you have an appointment anywhere that day? A Before leaving D'Amato off?

Q Yes. Did you have an appointment to meet anyone that day? A I did.

Q When and where? A I had a date at 12 o'clock.

Q Where? A Down Market street.

Q Who did you have the date with? A With Christopher Barone and Charles Maccucci.

Q With Christopher Barone and Charles Maccucci? A Yes.

Q Did you keep that appointment? A I did.

Q And where is this Childs' on Market street, is that the Childs' east or west of Broad street, that has been spoken of? A That is the one down from Halsey street.

The Court: Between Halsey and Broad?

Witness: Yes, between Halsey and Broad.

Q Now, did you run into anyone on your way down to that appointment after leaving Kathleen



D'Amato off? A After I left her I stopped at 37 Drift street and that is where I inquired about Tony Grande, and I am not positive sure whether I asked Angelo Grande for his brother, or the bartender.

Q But you remember inquiring for Tony Grande? A Yes.

Q Now, after leaving there, did you see anyone else there? A Before I left, I seen an ex-policeman named Kelly.

Q A man named Kelly? A Yes.

Q And then where did you go from there? A He asked me whether I was going downtown and I said I was.

Q I said where did you go to from there? A Downtown.

Q And did anyone go with you? A Yes.

Q Who? A Kelly.

Q Where did you go? A Downtown on Market street.

Q Did you keep your appointment? A Yes.

Q When you got down to Childs' whom did you meet there? A I met Christopher Barone, Charles Maccucci and Joseph Barone.

Q Give me that again. A Christopher Barone, Charles Maccucci and Joe Barone.

Q What was your appointment for at Childs'? A I had to see Chris Barone and Charles Maccucci; they had promised me $1,000 on that afternoon, a loan.

Q They promised to loan you $1,000? A Yes.

Q Did you borrow that $1,000 from them? A I did.

Q Did you remember what form you got the $1,000 in? A One certificate.

Q For $1,000? A Yes.

Q And that is what the Prosecutor referred to as a grand? A I don't understand that question.

Q Now, you have heard it called a grand? A I cannot recall hearing anything like that.

Q And this $1,000 bill or certificate that you called, you are a bootlegger, aren't you? A I am.

Q Whether you called it a grand or not, you have heard $1,000 bills referred to as grands? A I might have heard it, but it don't make me laugh. What I mean, it don't sound funny to me. I don't recall hearing it like that.

Q What do you mean? A If anybody said loan me a grand, it didn't sound funny to me.

Q I say, you have heard $1,000 bills called grands before? A I might have.

Q Now, this bill that you received you took where? A At Childs'.

Q And where did you go from there? A From there I went to Treat place.

Q And who went to Treat place with you? A Me and Christopher Barone, Buck Joseph and Max Silverman.

Q Now, when did Max Silverman come there? A He come a little while after I was there.

Q What time did you get there? A I don't know whether it was twelve or a little after.

Q And then you went over to Treat place? A I did.

Q Now, during that time, did you go up to the Packard place? A I did.

Q About what time did you go up there, if you remember? A Well, I went about five minutes to one, a quarter to one; I just can't remember; right after I come back from Treat place.



Q Now, do you remember who it was that went up to the Packard place that noon time together? A Me, Chris Barone, Joseph Barone and Max Silverman and ex-policeman Kelly.

Q Now, you have spoken of Joseph Barone and once you have spoken of Buck Joseph, is Joseph Barone a boxer? A Yes.

Q Who fights under the name of Buck Josephs? A Yes.

Q And is he known under the name of Buck Josephs generally? A Yes.

Q And he went up with you? A With us.

Q And that is the Joseph Barone you referred to? A Yes.

Q And the man you previously referred to as Joseph? A Yes.

Q And when you got up to the Packard place, how long did you stay there? A Well, five or ten minutes, fifteen; I just can't recall.

Q Did you look at any cars there? A Yes.

Q What kind of a car did you look at? A Packard straight eight.

Q Do you know who was buying that car? A I do.

Q Who? A Ruff.

Q Was Ruff there at the time? A No.

Q Did you see Ruff during that day—when did you see Ruff, did you see Ruff or the defendant Capozzi that afternoon? A In the afternoon, yes.

Q When was it you saw him? A Around three, half-past three; I can't recall.

Q Where did you go after you left the Packard place? A I come downtown again.

Q Do you remember where you were? A I went in front of Childs'.

Q Down around Childs'? A Yes.

Q Were you there when Silverman took the car out of the Packard place? A I was not.

Q Now, when you left the place and came down to Childs', who came down with you? A Me, Kelly, Chris Barone and Maccucci.

Q That is all except Max Silverman? A Yes.

Q And now, during that afternoon, when did you see Ruff? A I seen him about three or half-past three.

Q And what did he have with him? A He had a Packard car.

Q The same Packard car you had looked at? A The same car.

Q Do you remember what the car looked like, what was its appearance? A Open car with the top down.

Q Open car with the top down? A Yes.

Q And when you met Capozzi or Ruff where did you go with him? A He went over to Weber and—I don't know that other name, on the corner of Mechanic and Broad, a shirt store there.

Q Weber & Heilbroner's? A Weber & Heilbroner's.

Q Did you make a purchase there? A I did.

Q And what was bought there, have you anything on you now that you bought there? A Yes, sir.

Q What? A Underwear.

Q Is the shirt that you have on now one that you bought there? A I got a shirt up there, I think it is over at my mother's house.

Q You also got a shirt there? A Yes, sir.

Q I say the one that you have on one of those that you bought or not? A No, sir, just the underwear.

Q But the underwear is what you bought? A Yes, sir.



Q About what time was it, do you remember that you were at Weber & Heilbroner's? A I know it was after three o'clock.

Q And after being in Weber & Heilbroner's —by the way is that where you tendered the $1,000 bill? A Yes, sir.

Q Where did you go from there, Juliano? A From the shirt store?

Q Yes. A I went back to Childs'.

Q And did you go anywhere with Ruff after that? A From Childs' I went to the Pennsylvania station.

Q Whom did you meet there? A I met some young lady.

Q Was that the first ride you had in Ruff's car? A It was my first ride in that car.

Q Did you go down in the car? A Yes, sir.

Q Where did you go after you met the young lady? A I went to the St. Francis Hotel.

Q That was Dotty Miller, was it? A Yes, sir.

Q Dot Miller? A Yes, sir.

Q Then you went over to the St. Francis? A Yes, sir.

Q The three of you? A Yes, sir.

Q Where did you go after that? A From there we went over to some place where he got some rooms.

Q What street was it on, do you know? A I can't recall the name.

Q What kind of rooms were they, furnished rooms or an apartment or a flat or what? A An apartment.

Q How long did you stay over there? A We went to make measurements for the linoleum for his floors.

Q Did he do that? A He did.

Q How long did you stay over there? A I should judge ten or fifteen minutes.

Q Then did you go out with them? A I did.

Q Do you remember what date you were arrested on, Juliano? A I think it was the 15th or the 16th.

Q What month? A Last month.

Q Was that October? A Yes, sir.

Q And where were you arrested? A At 188 North Broad—excuse me 181 North Broad.

Q And how long had you been living there? A Oh, about a month or so, five weeks or three weeks, I don't know.

Q Was anyone living there with you? A Yes, sir.

Q Who? A Katherine D'Amato.

Q Do you remember being brought to police headquarters? A I do.

Q Do you remember being in various line-ups where people were asked to identify you? A I do.

Q Do you remember seeing the witness Boudreau at police headquarters? A Until he picked me out, just that once.

Q He picked you out? A That was the first time I seen him.

Q Did you see anyone in the telephone booth before that, I don't mean to know who it was, but did you see a person in the telephone booth before that? A Explain that to me better. What do you mean before this Boudreau picked me out?

Q Before the time that you first saw him, which you say is the first time that he picked you out, would you say that you saw someone in the telephone booth? A I did.

Q Did you know who it was then? A I did not.



Q You say you have been convicted of crime? A I have.

Q Were you sent to Rahway in 1908? A I was.

Q What was that for? A Stealing a couple of oranges.

Q How old were you at the time? A About seventeen.

Q What was the name of the charge that was entered against you? A I think it was breaking and entering.

Q Have you been convicted in the last couple of years twice for the transportation of liquor and had you pleaded guilty to the transportation of liquor twice? A I pleaded guilty to transportation twice.

Q Did you plead guilty in the year 1925 to participating in the robbery of a gambling game at the Ivy Leaf Club? A I did.

Q You admitted your connection with that, did you not? A I did, I admitted it, I made a statement.

Q You pleaded guilty? A I pleaded guilty to robbery.

Q You were driving a car, weren't you? A I was.

Mr. Fisch: I object to that.

The Court: Sustained.

Q You were convicted of assault and battery once? A I was.

Q Have you ever been convicted of any other crime except those I have mentioned? A Not as I can remember of, no.

Q Do you remember an occasion when you were driving along Drift street in or around the

month of September and were going towards the house at the rear where the mother of young Joe Juliano lives? A Say that again.

Q Do you remember an occasion around the month of September when you were driving a car down Drift street past young Joe Juliano's mother's house when young Joe Juliano spoke to you or called to you? A I do not.

Q Do you remember anything about—did you ever have any conversation with young Joe Juliano when anyone sat in the car?

Mr. Fisch: Objected to as leading.

The Court: I will allow that.

A I did.

Q Do you know who was in this car at that time? A I do not.

Q Where was his car standing? A His car was standing on one side of the street coming up and mine was going down and I was stopped.

Q Did he talk to you? A I called him over.

Q What did you call him over for? A I wanted him to get his nieces, I delivered the message for him to go down and get his nieces down at his sister's house.

Q Did whoever was in the car with young Joe Juliano on that day talk to you? A No, sir.

Q Did you learn until after you were arrested who that was? A After I was arrested I learned.

Q Juliano, did you have anything to do in respect to the hold-up of the Reid Company or the killing of Mr. Condit? A I did not.

Q Did you on the 19th of July go to the Reid Company? A I did not.

Q Or participate in any hold-up there? A I did not.



Q Have you been around the City of Newark ever since that occurred? A I have.

Q Have you made trips to the shore since then? A I have.

Q How long? A Well, I will say July, August and September also.

Q During those months? A Yes, sir.

Q Did you go on the night of the 19th of July? A I did.

Q When did you come back? A On the 20th.

Q The day after? A Yes, sir.

Q Where did you go there? A I went down to a place called the Silver Slipper.

Q Did you see a lot of persons there from Newark including some police officers? A I did.

Q Who was with you when you went in there? A Me, Christopher Barone, Capozzi, and Miss Miller.

Q The four of you? A Yes, sir.

Q And you went down in that new car? A Yes, sir.

*Cross examination* by Mr. Fisch.

Q Now, let me see, how many convictions have you told us about, I could not quite follow the number of them. How many times have you been convicted of crime?

Mr. McGeehan: I object to that, the record will show that.

A I cannot remember how many times he asked me about.

Q Well, five or six times, was it? A I was sent to Rahway once, I went to Caldwell Penitentiary and I was sent to State's Prison another

time and stayed there five months and was recalled and re-sentenced.

Q Well, there were a couple of other times when you were fined, wasn't there?

Mr. McGeehan: I object.

The Court: Sustained, unless it was a conviction of crime.

Q You were sent to the penitentiary, weren't you?

Mr. McGeehan: I object to that, that is not a question of whether he was convicted of crime, he said he was sent to the penitentiary.

The Court: Proceed.

Q You were to the penitentiary once, weren't you? A I was.

Q And you were convicted of assault and battery and abuse, weren't you? A I was.

Q And that was one of the convictions that you did not recall about when you were telling Mr. McGeehan about your convictions?

Mr. McGeehan: I object. I asked him about that.

A He asked me that.

The Court: This is another offense.

Witness: No, I don't think it is. I got sentenced for double assault, not abuse.

Q You were once convicted of assault and battery, were you not? A Of assault and battery?



Q Yes. A I was convicted the same day for both of them. I cannot remember. It is about fourteen years ago.

Q You were convicted on one occasion of assault and battery and on another occasion you were convicted of assault and battery and abuse? A I think so.

Q Now, you have said you are referred to as Big Joe; you are known as Big Joe, aren't you? A Nobody calls me Big Joe.

Q Nobody calls you Big Joe? A No.

Q You are known as Big Joe? A No.

Q And you live at 260 Eighth avenue? A Yes.

Q That is where your mother lives? A Yes.

Q So that your telephone number is 2842 Humboldt, isn't it? A That is the 'phone in my house.

Q Well, that is your number? A I beg your pardon?

Q That is your number, isn't it? A The 'phone in my house?

Q Well, it is the telephone number?

Mr. McGeehan: I object. He said it is the 'phone in the house.

The Court: No. That is not in answer. He differentiates and the prosecutor is entitled to know what he means.

A I own the house, but not the telephone.

Q You mean the Telephone Company owns the telephone, is that what you mean? A You asked me is the telephone mine. I cannot hear you so good. Holler and I can hear you.

Q You mean that the telephone belongs to the Telephone Company? A I do.

Q But the house belongs to you? A Yes.

Q And that is your telephone number, isn't it? A My mother's 'phone number.

Q Not your 'phone number? A No.

Q So that if anybody wanted to call you, you would not give them that number?

Mr. McGeehan: I object.

The Court: I will allow that.

A I would give them that telephone number.

Q And did Kathleen D'Amato call you up at that number on occasions? A I don't think she ever did.

Q You don't think she ever did, eh? A No, sir.

Q You do not think so? A I am almost positive.

Q Almost positive? A Yes.

Q Did anybody call you up at that number? A Yes.

Q And Kathleen D'Amato is Little Joe's sister? A She is.

Q And you were living with Kathleen on Broad street as man and wife, weren't you?

Mr. McGeehan: When? I ask that the time be specified.

Q At the time of your arrest and for four or five weeks. That is true? A I was.

Q And she was living there as your common law wife?

Mr. McGeehan: I object to that. That is a legal term and many lawyers have trouble defining it.

The Court: Suppose you just ask him if she was his wife.



Q She was living there as your wife, wasn't she? A Yes.

Q And that is the same woman whom you were to the Berwick Hotel with? A Yes.

Q And you were pretty well known around the Berwick Hotel, weren't you? A What do you say? I didn't hear you.

Q You do not mean that, do you, that you could not hear that? A I told you I have a cold.

Q (Question read as follows: And you were pretty well known around the Berwick Hotel, weren't you?) A I don't think so.

Q You were there on a number of occasions? A I do not think I was in the place over eight or nine times, maybe ten times; maybe more or less.

Q Over a period of how long? A Well, I would say a year or a year and a half.

Q When was the first time you went there? A I cannot remember that.

Q Well, how long ago? A I cannot remember.

Q Was it in the warm weather or the cold weather? A I don't know.

Q Who did you go there with the first time? A I don't remember.

Q A man or a woman? A I don't know whether it was a man or a woman.

Q Whom did you go there the second time with? A I don't remember.

Q A man or a woman?

Mr. McGeehan: I object to this. How can that be relevant?

The Court: Sustain the objection.

Q How many times had you been there with Kathleen D'Amato? A Well, we will say four

or five times—three times; I ain't sure of that, either.

Q And everytime you went there you would register under a different name, wouldn't you? A I do not remember if I did.

Q Well, try and think. A Show me the book and I will see my handwriting and then I can tell you better. I cannot remember.

Q That is the only way you can tell? A I can tell you that is in my handwriting; I cannot remember how many times.

Q When was the first time you went there with her? A I cannot recall.

Q You don't know? A I cannot recall the first time I went there with her, whether it was in June or July or April or March.

Q Well, how long have you been going around with her to different hotels and living with her? A Four or five years.

Q Four or five years, and then were you ever in her company when you were with Capozzi? A I think I was.

Q Well, you know you were, don't you? A I think I was; I think I was.

Q Well, you know you were, don't you, over that period of four or five years? A I just was trying to think if I was or not in his company or not with her, but I think I was.

Q And were you ever in Chris Barone's company when you were with Kathleen D'Amato? Little Joe's sister? A Yes.

Q And were you ever in Little Joe's company when you were with Kathleen? A I do not remember whether I was or not. It is possible I was, and I wasn't; I don't remember.

Q Now, you were a regular customer of Huber's Baths? A I was.



Q And you knew this man Carrington who testified, the colored man? A I did.

Q You saw him there frequently? A I did.

Q Did you know his name? A Charlie is all I know him.

Q And he knew you, didn't he, and called you by your name? A Sure.

Q What did he call you? A Joe.

Q You never had any trouble with him, did you? A I didn't.

Q You do not know of any reason why he should come here and testify to something that is not true against you, do you?

Mr. McGeehan: I object to that. I do not think that is cross examination.

The Court: It gives the witness a chance to show any bias or prejudice. I will allow the question.

Mr. McGeehan: It is not cross examination.

The Court: I will allow it.

A I don't.

Q And the night that you went to the Berwick Hotel, registered at the Berwick Hotel, as Jones from Jersey City and Kathleen D'Amato was with you, you didn't have any baggage with you, did you? A I cannot recall whether I did or not.

Q Well, you know that you didn't? A I don't.

Q What is that? A I don't know whether I did or didn't.

Q Well, where did you come from? A I had come from a theatre.

Q What theatre? A Loew's.

*Joseph Juliano, cross.*

Q Was Kathleen D'Amato to the theatre with you? A Yes.

Q And where had you been before you went to the theatre? A Home.

Q In your house? A Yes.

Q Up on Eighth avenue? A Yes.

Q Was Kathleen with you there? A No.

Q Where did you meet her? A On Clifton avenue.

Q On the street? A Yes.

Q And how did you go to the theatre? A By automobile.

Q What kind of a car? A Cadillac.

Q What is that? A Cadillac.

Q Open or closed? A Open.

Q Touring car? A Phaeton touring.

Q And you met her at the corner? A On Clifton avenue, yes, sir.

Q Was anybody with you? A No, sir.

Q And what seat did she sit in? A In the front seat.

Q She didn't have any bag with her, did she? A I can't remember.

Q Well, you didn't see her put any bag in the car, did you? A I don't remember, I can't recall that.

Q You didn't have any bag with you, did you? A Maybe I did and maybe I didn't.

Q Well, did you or didn't you? A I don't know.

Mr. McGeehan: I object, he said a dozen times he doesn't remember.

The Court: Overruled.

Q You don't know whether you had a bag with you or not when you left the house to get into the car? A I do not.



*Joseph Juliano, cross.*

Q Now, you went down to Loew's, you say? A I did.

Q Where did you put your car when you went into the theatre? A I went down New street and parked my car on the New street side.

Q You did not put it in any parking station, did you? A Well, I suppose it is all parking, all the way across there, isn't it?

Q You did not put it in any parking station? A No, sir.

Q Or any garage? A No, I did not, out in the street.

Q Then you got out of the car? A I did.

Q And did Catherine get out with you? A She did.

Q Did you take any bags into the theatre? A I did not.

Q Did she take any bag into the theatre? A She did not.

Q How long was your car out there on New street? A I went into the theatre, I don't know how long it takes Loew's to come out, but I looked at everything that was in there and came out.

Q What was the name of the picture you saw? A I don't remember.

Q And when you came out you went back to the car, did you? A I did.

Q Did you see any bags in the car then? A I don't recall.

Q What admission did you pay at Loew's? A I think it was seventy-five, ninety-nine or a dollar, I don't remember.

Q What is that? A Seventy-five, ninety-nine or a dollar, I can't remember.

Q Apiece, you mean? A Yes, I cannot just recall.

Q And then from there where did you go? A We went out.

Q Where to? A In my car.

Q And when you got to the car you didn't put any bags in the car, did you? A I did not have any in the show, how could I bring them in there?

Q Won't you please just answer my question? A Yes.

Q You did not put any in there? A I did not.

Q Catherine did not put any in there? A She did not.

Q Where did you go from there? A We went riding.

Q Where? A Up to Caldwell.

Q By the way, what time did you get to the theatre? A I don't know whether it was three, half-past three, four o'clock something like that.

Q What is that? A Half-past three, four o'clock in the afternoon.

Q Half-past three or four o'clock in the afternoon? A Something like that.

Q That was the time when you got to the theatre? A Something like that.

Q What time did you get out of the theatre? A I can't recall, something like 8 o'clock, something like that.

Q Then you went riding up to Caldwell? A I took a ride.

Q Did you go past the Penitentiary? A I did not.

Q But you went up through Caldwell? A Yes, sir.

Q From Caldwell where did you go? A Sir?

Q From Caldwell where did you go? A Back to Newark.



Q You only went as far as Caldwell, did you? A Yes, sir.

Q And then you came back to Newark? A Yes, sir.

Q And where did you go then? A I think as far as I can remember I stopped in some place for lunch, I don't know whether it was the Thomas or the St. Regis, I just can't remember.

Q What time was that? A I can't recall.

Q You did not make any stop in Caldwell, did you? A I did not, just riding around.

Q And then you came down to somewhere on Broad street to get something to eat? A Just a little pastry and coffee.

Q Did you both get out of the car? A We did.

Q Did you take any bag out of the car with you? A I did not.

Q Did Catherine take any out with her? A She did not.

Q And how long did you stay in the restaurant? A Well, I got done eating coffee and some pastry and came right out.

Q Just a little while? A Yes, sir.

Q What time was it when you left? A I don't know.

Q When you got in the car did Catherine get in with you? A She did.

Q Did either of you put any bags in the car then? A We did not.

Q Where did you go from there? A To the Berwick Hotel.

Q Went to the Berwick. Now, how long did it take you to get from the restaurant to the Berwick? A Well, I should judge you could get there in five minutes or three minutes.

Q Well, it only took you three or five minutes, did it? A Maybe ten minutes, I don't know.

Q And you got there about what time? A Between ten and eleven I think.

Q And then you had been from four o'clock until that time out for a ride up to Caldwell and back again and sitting in a restaurant for a few minutes eating coffee and pastry? A We did.

Q And that consumed all the time from four o'clock until eleven? A Yes, sir.

Q Is that right? A Yes, sir.

Mr. McGeehan: I object, that is not the testimony.

The Court: He is asking him.

Q When you got out at the Berwick did Catherine get out with you? A She did.

Q Did you take any bags out of the car? A I cannot recall.

Q Did she take any bag out of the car? A I can't recall.

Q Did you see any bag in the car? A I don't remember.

Q You did not make any stops to pick up a bag anywhere, did you? A I don't remember.

Q When did you and Catherine make up your minds, or when did you make up your mind to go to the Berwick? A When I went there.

Q What, when did you make up your mind to go there? A Before I met her I had made up my mind I was going to a hotel.

Q What is that? A Before I met her I had made up my mind I was going to a hotel.

Q Before you met her? A Yes, sir.

Q And you had not made any dates to go there, had you? A I did.

Q When did you make it? A The day before that.



Q Where? A On Drift street.

Q What is that? A On Drift street.

Q Now, you say you started from Loew's about seven o'clock? A Seven, half past seven, eight, I can't remember the time.

Q Was it a nice night? A I was just thinking about it, it was raining while I was in there, I think it was and it wasn't, I am not sure about that either.

Q You think it was or it wasn't? A Yes.

Q Well, what was it? A I don't know.

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

Q Well, do you know whether it was thundering or lightning or not? A I am trying to think. I was in Loew's one night and heard it thundering outside, I don't know whether it was that night or some other night.

Q Well, was it thundering and lightning when you were driving through Caldwell? A I don't remember.

Q You don't remember? A I do not.

Q And do you remember whether or not the moon was shining when you were driving to Caldwell and back again? A I do not.

Q Do you know whether it was light or dark when you got out of the theatre? A It was dark.

Q What? A Dark.

Q The street lights were on? A Yes, sir.

Q You are sure about that? A Positive of the lights.

Q You are positive, and you are also positive that it was about seven o'clock?

Mr. McGeehan: I object to that.

A I didn't say positive.

The Court: He said seven, seven-thirty or eight.

A Well, maybe later.

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

Q Well, now, which was it? Give us the best recollection of the time when you came out of Leow's Theatre. A I cannot give you my recollection, because I do not remember. It is four months ago, and I think it is pretty hard for a man to say when he is in a certain moving picture.

Q Well, you said a little while ago it was seven, seven-thirty or eight? A Well, maybe earlier, I don't know.

Q And you do know whether it was clear or rainy? A I do not. I just was trying to think that it was raining or it was not. I know I was in there one night when it was raining. I do not know whether it was that night or the week previous.

Q And you do not know whether the moon was shining or whether it was thundering or lightning when you were driving to Caldwell? A On the way up on the 18th, I don't know.

Q You don't know? A No.

Q Now, you know that there is a gasoline place up on Drift street? A I don't.

Q You don't know that? A I don't,

Q What kind of a place has this man Grande got up there? A Soda place.

Q Soda place? A Soda and beer.

Q Just sells ice cream soda? A Not ice cream soda, bottle soda and beer.

The Court: Is that Guili Grande?

Witness: Yes.





Q That is the place they call Guili Grande's? A Yes.

Q And you know a club on Drift street on the other side of Drift street, the opposite side from Guili Grande's place? A I do.

Q Next to a baker shop? A I do.

Q There is a pool table in there, isn't there? A Yes.

Q And they shoot crap in there? A I don't know.

Q Well, you have been in there? A I never—

Mr. McGeehan: I object to that as not being relative, whether they shoot crap in this place in Newark, how can that be evidential on this murder trial?

The Court: Except that in locating this particular place. I do not know what the State has—

Mr. McGeehan: I do not see how that can be relevant.

The Court: Except for identifying a certain place.

Q Now, do you know a club or gambling place on Eighth avenue at Boyden street, a restaurant, Eighth avenue opposite Boyden street? A Now?

Q Some years ago?

Mr. McGeehan: I object as to what occurred some years ago.

The Court: Sustain the objection.

Q Didn't you frequent a club on Eighth avenue with Little Joe Juliano back as far as 1919? A Never.

Q And didn't you see Detective Thomas there when you were in the company of Little Joe Juliano? A I didn't.

Q And you drive a car, don't you? A I do.

Q And you drove your own car the night that you were going up to Caldwell and back? A I did drive a car.

Q You did not employ any chauffeur, did you? A I did not.

Q And Frank Amore, when was the last time you saw him before the 19th of July? A The last time before I seen him, July 19th? Well, I generally see him every other day or every day.

Q Well, did you see him on the 18th? A On the 18th?

Q Yes. A I do not think I did.

Q Did you see him on the 17th? A I cannot recall that.

Q Did you see him on the 16th? A I might have seen him on the 16th.

Q Well, did you? A I think I did.

Q Where? A On Drift street.

Q Did you talk to him? A I don't know whether I did or not. I don't know whether I seen him positively sure; maybe I did: maybe I didn't.

Q You do not know whether you spoke to him or not when you saw him on Drift street? A I don't know whether I seen him or didn't see him, or spoke to him or not; maybe I did see him and did speak to him.

Q But you are sure you spoke to him on the morning of the 19th? A Yes.

Q What makes you sure of that? A Because I had been trying to think where I was on that day when I was accused of this crime.



Q Yes. A Very much trying to think whom I seen and what I done.

Q Yes, and that is why you remember? A That is why I remember.

Q Yes. A Well, I should remember.

Q Had you ever spoken to him before that day about going down to the seashore? A Before?

Q Yes. A I don't recall whether I did or not.

Q You do not recall that? A Whether I spoke to him before that date or not?

Q Had you ever spoken to him after that date about going down to the seashore?

Mr. McGeehan: After what date?

The Court: The 19th.

Q The 19th. A After the 19th?

Q Yes. A I see him so often that I just can't tell you the date. I see him and don't see him.

Q Yes, and every time you see him you speak to him? A I do. I think I do, when I see him.

Q So you don't know whether you spoke to him before or after that date about going down to the seashore, do you? A I am just trying to think. I think that was the last day I seen him and then I seen him again when I was on my vacation in August.

Q You have been to Loew's Theatre quite often, haven't you, during the past summer? A Three or four times, five, a few times.

Q Now, the night that you went there with Catherine D'Amato and went from there to Caldwell, where did you sit? A Behind the wheel—you mean in the theatre or in the car?

Q In the theatre. A In the loge.

*Joseph Juliano, cross.*

Q And you got there, you say, about three o'clock in the afternoon? A I says half-past three, four o'clock.

Q What is that? A Between three and four.

Q And don't know how much you paid for the tickets? A I do not.

Q Don't you know as a matter of fact that the highest price of tickets at Loew's theatre in the afternoon is fifty cents? A That is what I says, I don't recall, I told you that before.

Q You think, though that you paid seventy-five cents, ninety-nine cents or a dollar? A Being that you sit in the loge I know you pay more, that is why I figured.

Q You know the other seats are thirty cents, aren't they? A I never sat in them.

Q You don't know how much they are? A No, sir.

Q You take the best in the house?

Mr. McGeehan: Oh, I object.

Q Now, Tony Grande, he is a brother of Angelo Grande, isn't he? A No, sir.

Q Nephew of his, related to him in some way? A I think he is related in some way.

Q And Angelo is the man who is known as Gilly Grande, isn't he? A Yes, sir.

Q He is the man who runs the store where they sell soda water? A Yes, sir.

Q Up on Drift street? A Yes, sir.

Q And he is the man whose telephone number is 0936? A Yes, sir.

Q What central is it? A Mitchell, I think.

Mr. McGeehan: I want to offer the sheets to the prosecutor, Exhibit D. 14 for identification.



*Joseph Juliano, cross.*

Q What is it? A Mitchell.

Q I don't know whether I asked you this or not before. How long have you been going around with Catherine D'Amato? A Four or five years or three years.

Q And you, during all this time, have been very intimate with her, haven't you? A I have.

Q She knew where you lived? A She does.

Q And do you know whether or not she knew the boy Tony Grande? A She does know him.

Q And Angelo Grande? A Yes, sir.

Q And Angelo Grande's place. She knew that, too, didn't she? A Yes, sir.

Q How far do you live from Angelo Grande's? A About 500 feet, 600.

Q And you frequently went in there, didn't you? A I used to be a partner there one time.

Q You used to be a partner there one time? A Yes, sir.

Q You are very friendly with Angelo? A Yes, sir.

Q And you also went into his place? A Very much.

Q That is quite a hang-out for people up around there? A I know I was there.

Q What is that? A I know I went there frequently—I say, I know I went there frequently.

Q And this conviction that you have testified about, with regard to the Ivy Leaf Club, it was for hold-up, for robbery, wasn't it? A Robbery and a crap game, yes, sir.

Q Yes, a hold-up. A I pleaded to a charge of robbery.

Mr. McGeehan: He has answered, "The robbery and the crap game."

The Court: Yes, he has answered.

Witness: Crap shooters.

Q Now, what time did you leave the Berwick Hotel on July 19th? A 11:35 or 11:30, I am not sure.

Q You are sure that it was not before 11:25? A It might have been 11:24, I don't know.

Q Are you sure it was not before 11:24? A I don't know.

Q Well, are you sure it was not before 11:15? A I am positive of that.

Q You are positive of that, what makes you positive of that? A Because I looked at my time and I was in my room about 11:05 I think it was or 11:10 when I looked at my watch.

Q Yes, you looked at your watch and was it your habit to stay in your room as late as that on a Monday morning? A No, I took a bath that morning.

Q What? A I took a bath.

Q You took a bath? A Yes.

Q And is that what took you so long? A No, not exactly.

Q Well, what was the usual time for you to get up? A Eleven, twelve, one, two, ten, nine, eight o'clock according to the way I felt.

Q So you did not have any usual time for getting up? A Not any other time.

Q What? A Not any other time; not any other time.

Q Never had a usual time for getting up in the morning? A Not unless I had an appointment with someone.

Q Weren't you on Drift street on the morning of July 19th about eleven o'clock? A I was not.



Q You were frequently in the neighborhood of Drift street and Clifton avenue, were you not? A When?

Q Frequently. A You mean quite often?

Q Yes. A Why, sure.

Q You are sure that you were not up on Drift street on the morning of July 19th at eleven o'clock or at any time before eleven o'clock that morning? A Positive.

Q And was Angelo Grande, the man who has been referred to as Guili, and who has this store up on Drift street, was he in one of these transactions in which you were convicted in Morris County with you? A Yes.

Q Now, you say that you got a $1,000 bill from Chris Barone? A Yes.

Q About what time of the day did you get that $1,000 bill? A Around twelve o'clock, or five after twelve, around that time.

Q You saw Max Silverman there? A Not when I got there.

Q Well, he came after you got there? A He did.

Q And did you get the $1,000 bill before he got there? A Before Max Silverman got there.

Q Before he got there? A Yes.

Q Did you see Silverman give Barone any money? A I don't think I did.

Q Then you are sure that you got this money from Barone before Silverman got there? A Yes.

Q Now, on the night of the 19th, you said that you went with Ruff and Barone and Ruff's woman, Dot Miller, to the shore? A I did.

Q Where did you leave from? A Market street.

Q Whereabouts? A Childs'.

Q And had you been with them all of the time from the time you went to the St. Francis hotel? A They who?

Q Ruff and Dot Miller. A What time?

Q From the time they went to the St. Francis hotel. A From the Pennsylvania station, you mean?

Q Yes. A Yes, they went to the St. Francis Hotel.

Q And you were with them all the time up to the time you went down to the shore? A I was not.

Q Well, up to what time were you with them? A Until he took me to my mother's home and left me there.

Q What time? A Right after he went over to measure his flooring for the apartment that he had hired.

Q And what time was that? A Half-past five, six, about that time.

Q And then where did you go? A I had something to eat and went to the races, dog races.

Q Did you tell Ruff where you were going? A I didn't.

Q Did he tell you where he was going? A He didn't.

Q He just left you at your house and said good-bye? A Yes.

Q Then you did not make any appointment to meet him, did you? A I didn't.

*Re-direct examination* by Mr. McGeehan.

Q When you went with him, you went on the invitation to take a ride to the shore? A Yes.



Q When you said transporting, what were you convicted of? A Booze.

The Court: How far away from the Reid Ice Cream Company is the corner of Drift street and Clifton avenue?

Witness: I should judge one, two, three, four, five, about seven blocks.

The Court: About seven blocks.

Witness: Seven or eight blocks.

Q You have been pretty well known in that neighborhood all your life? A Yes, I have.

Q Who handed you the $1,000 bill? A Chris Barone.

Q And who handed it to him? A I don't know who handed it to him, I was supposed to borrow it from Charles Maccucci.

Q And you owed it to him after that? A I owe it to him yet.

Mr. Bigelow: The State consents that D. 14, being these telephone sheets, be admitted in evidence, but I trust the defense will make every effort if they have the address of the telephone girl to bring her here, because I want to hear if this was a man's voice or a woman's voice on the telephone.

Mr. McGeehan: Well, I will endeavor to get that witness on here. Whether she will have a recollection that went beyond the fact that she wrote this down and that it must have been right at the time, I don't know.

The Court: We cannot anticipate what she knows.

Mr. McGeehan: No, I have never talked to her. We will try to get her here, and we

will send the transportation money to get her, if it is possible.

Mr. Bigelow: The State will be glad to reimburse any expense.

(Papers offered in evidence and marked Exhibit D. 14.)

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FRANK C. AMORE, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A 41 Sunnyside terrace, East Orange.

Q And have you your own home there? A Well, my mother.

Q You are married? A Yes, sir.

Q How long have you lived there? A A year and eight months.

Q Who do you work for? A Armour & Company.

Q How long have you worked for Armour & Company? A Four years.

Q They are the beef packers? A Yes, sir.

Q What position have you with the Armour Company now? A Manager of the pork department.

Q What position did you have when you went there? A Why, I started as a salesman.

Q How long have you been manager of the pork department of Armour's, is that for Newark or New Jersey? A That is the Lackawanna branch house. We have another branch house down at Ward street.



Q Are you manager of both? A No, just that one particular branch house.

Q Where is that located? A No. 4 Lackawanna avenue, Newark.

Q Were you connected with the pork department of that company in July, 1926? A Yes, sir.

Q Do you know the defendant Joseph Juliano? A I do.

Q How long have you known him? A Well, I know him about fifteen or sixteen years.

Q And you are married? A Yes, sir.

Q And have you ever gone out with him or with him and Catherine D'Amato and your wife? A I have.

Q Do you own an automobile or did you in July? A I don't own an automobile, I never did own one and I didn't own one in the month of July.

Q Did you ever borrow a car from Joseph Juliano? A Many a time.

Q What is your wife's name? A Minnie.

Q When is her birthday? A July 18th.

Q Where was she born? A Newark.

Q What was her maiden name? A Minnie Lascala.

Q Born in Newark? A Yes, sir.

Q And her birthday is July 18th? A Positively.

Q You are sure of that? A Positively.

Q Did you have anything to do, any conversation with Joseph Juliano on July 18th regarding the borrowing of his car on your wife's birthday? A Well, I have asked him so many times, but if I can recall distinctly I think I did around Saturday, on a Saturday, I am not positive, because I am always in the habit of

asking him for the loan of his car, because he very seldom refuses it to me.

Q Well, Saturday is the 17th, the day before your wife's birthday, is that right? A Yes, sir.

Q Did you borrow the car on your wife's birthday or not? A I did not.

Q Did you see Joseph Juliano at any time around your wife's birthday? A No, I don't recall that I did.

Q Well, when did you see him, when was the nearest time after Saturday you spoke to him about getting his car, when did you next see him? A Why, on July 19th.

Q When was that with regard to the date that you wanted to borrow the car? A What was that?

Q That was what day of the week? A The day that I saw him?

Q Yes. A Why, that was on a Monday morning.

Q Where was it that you saw him? A Well, right while I was standing in front of Armour & Company.

Q Do you know about what time it was that you saw him? A About 11:30.

Q How do you fix the time? A Well, between the hour of ten and eleven I am called by my New York boss with reference to giving him the quotation of how our market goes there that day.

Q What time do you go to work in the morning? A Five o'clock.

Q What time do you go to lunch? A Well, at any time at a quarter-past eleven, or half-past eleven, somewhere around that time.



Q And you sometimes go as early as eleven? A Well, not on the dot of eleven, because it is always after eleven.

Q And the reason you stay there is to get these calls from your New York boss between ten and eleven? A Yes, sir.

Q Now, do you know exactly when you went to lunch on the 19th? A It was about 11:30, quarter to twelve or twenty minutes to twelve or maybe 11:25, somewhere around that time.

Q That is your usual time of going to lunch? A Yes, sir.

Q And were you on your way to lunch when you saw him? A Yes, sir.

Q Where did you see him? A Coming over Lackawanna avenue.

Q What was he doing? A Driving a Cadillac car.

Q Who was with him? A His sweetheart.

Q Catherine D'Amato? A Yes, sir.

Q Did you talk to him? A I sure did.

Q What did you say to him? A Why, our first conversation was with reference to vacation and Joe knows my wife is a sick woman and when I asked him for the loan of his car I always tell him the Mrs. is not feeling so good and oftentimes—

Q My question is what did you talk to him about on that occasion, you said something about a vacation? A Yes, sir.

Q Did you talk to him anything about the car? A Yes.

Q Well, what briefly did you talk to him about with reference to that? A I told him I wanted to use that car on Sunday and he asked me how I spent my wife's birthday, and I said, "Well, this morning I received a letter telling me that

my vacation will be the first two weeks in August'' and if I ain't mistaken, we prepared a party to be in Long Branch around the first two weeks of August. We met there.

Q How long did he talk to you there? A Oh, not over five minutes, because he was in a hurry.

Q Did he tell you he had an appointment at noon time? A He told me he was in a hurry, that is all.

*Cross examination* by Mr. Bigelow.

Q You have known for some time that Big Joe was living with Miss D'Amato? A I have not.

Q You referred in your direct examination as her sweetheart or as his sweetheart? A Yes.

Q You never knew they were living together? A No.

Q You saw Big Joe frequently? A Yes.

Q And frequently asked him to loan you his car? A Yes.

Q About how many times would you see him a week ordinarily? A Well, maybe two or three nights a week. Whenever I came down through the ward and seen my old friends, because I lived on Drift street for twenty-five years.

Q Where did you live on Drift street? A 14 Drift street.

Q And what number is Guili Grande's? A About 37.

Q Do you know where that club is along there? A I don't know what you mean by a club.

Q I think it is next to a baker shop? A Well, next to 16 Drift street I know there is a pool room there.



Q Sort of a place— A It is known as the Winocky Bowling Club. It used to be in my home at one time and then they had a big fire there and the people who bought the property had destroyed the store and made rooms out of it, and this fellow was compelled to go next door.

Q How long have you moved away from that neighborhood? A It will be two years this coming May.

Q It was one year last May? A Yes.

Q And you lived at number 14 until that time? A Yes.

Q Now, where do you live? A 41 Sunnyside terrace, East Orange.

Q And you still come down to Drift street and 8th avenue to see the old gang? A Yes.

Q Where do you go when you go down there? A Down to Guili Grande's place; if I don't go there, I go down to the lower part of 8th avenue.

Q Did you meet Big Joe at Guili Grande's place? A Yes.

Q And you are apt to come down, I think you said, two or three evenings a week? A Yes.

Q And occasionally did you see Big Joe in the daytime? A Well, when I get through early, during the summer months, I used to see him two or three times a week, because I would go up for Guili Grande to go to the ball game, and that is how I come across Big Joe.

Q Did you go on this trip which was early in August? A I did. I met Joe not the first week of my vacation, but the second week; I met him down at Long Branch stopping at a place there, and his mother was also down at the same time, his mother and sisters.

Q And how long were you and Joe together there then? A Well, I got there Monday, the

last week of my vacation, and we said I go back the following Sunday, and Joe was down there that same time, and I don't know how long he was there.

Q You and he met on Sunday and stayed there practically a week? A Yes.

Q Did you talk over and make plans for that trip before going down? A I did.

Q You made plans with Joe for it? A Well, how Joe come to know about it was because my wife often made dresses for his girl, his sweetheart, and I met Joe on occasions and I spoke to him about it, because when I met him on the 19th he was in a hurry.

Q Your wife also made dresses for Miss D'Amato? A Yes, she is a dressmaker.

Q On Big Joe's order? A No.

Q Well, didn't you ever talk to Big Joe about this trip that you were going to make together? A I did.

Q More than once? A Not that I can recall.

Q Just mentioned it once? A Yes.

Q And that once that you mentioned it, you fixed on the time and the place? A We didn't fix the time and the place, your Honor.

Q Well, did you afterward fix the time and the place? A No.

Q Well, how did you know when and where to meet each other? A Well, I knew when his people were going down to Long Branch and I had in mind to use his car or to make a trip with him, that I intended to make with him, and he said something he would like to be down to the shore near his mother, and the second week I had sisters staying down there, and various other friends, and we decided to go down to Long



Branch, and that is how I come to go down to Long Branch, and met Joe.

Q You did not let him know you were coming? A No, sir.

Q Just took him by surprise? A Yes, sir.

Q And you only mentioned the matter once to him before that? A Yes, sir.

Q When was that? A I really cannot tell you about the time, because I used to see him two or three nights a week down there, you see.

Q You do not remember when you talked to him? A No, sir.

Q And you used to borrow the car several times? A Yes, sir.

Q And talked to him frequently about borrowing the car? A Yes, sir.

Q Now, when you would borrow the car did you sometimes drive it or did he sometimes drive? A I always drove.

Q When did you see him before he went to Long Branch, do you recall? A I cannot recall, that, your Honor.

Q When did he go to Long Branch? A When I met him down there on Monday, he told me he was down there and I don't just recall how many days he told me he was there.

Q Well, if he had been down there at Long Branch for a week before you got down there I don't suppose you had seen him then for a week here in Newark, did you? A Well, a week before that I was away to Holmesburg, Pennsylvania, the first week in August.

Q Do you remember whether you saw him at all or not the last week in July? A Well, I don't recall that, either, because I had seen him so many times.

Q And do you recall whether you saw him the week before that, next to the last week in August? A I can't recall that right offhand, no.

Q Well, now, think real hard and see if you cannot think of some occasion on which you saw him, some definite occasion when you saw Mr. Joseph Juliano the last week or next to the last week in July. A Well, right offhand, I cannot think hard, your Honor.

Q You saw him so often it is hard to keep the different dates, is it not? A Yes, sir.

Q Well, now, how do you happen to remember so distinctly this meeting him on the 19th of July? A Because on the 18th it was my wife's birthday and we had a party on hand and I could not get the car that day, and my wife said to me, "Why don't you try to get Joe's car," and I told her that I had not seen Joe on Sunday to ask him for the car.

Q For how long hadn't you seen Joe? A I think I saw him last on a Saturday, but I did not mention to him about the car.

Q You saw him the day before the birthday? A No, sir, as a rule on a Sunday I come down generally and stop on Drift street, but I did not see Joe around because I was down there early in the morning.

Q You did see him, though, the day before the birthday? A I think I did, but I am not positive.

Q What day was the birthday? A On the 18th of July.

Q What day of the week was that? A On a Sunday.

Q When you were off celebrating? A Down to my wife's folks' house.

Q Where was that? A Down at my in-laws.

Q Where is that? A 153 Garside street.





Q Here in Newark? A Yes, sir.

Q Wasn't Joe invited to the party? A He was not.

Q How long did you stay there that day? A That afternoon.

Q How did you get there? A By trolley car.

Q And back by trolley, too? A To home?

Q Yes, back home by trolley car? A Yes.

Q That same evening or afternoon? A Yes, sir.

Q About what hour did you go? A Did I get there?

Q Did you leave there? A Night?

Q Or in the afternoon, whenever you left? A Well, I make it a practice of leaving there around nine, ten o'clock, on a Sunday night because I got to get up early Monday morning.

Q I am not asking you what your practice was; I am asking you when you left on this particular occasion? A Well, I don't recall.

Q Do you recall when you got to the Garside street house on this particular occasion? A I do.

Q When? A Sunday morning.

Q What hour? A Well, I got there in time to make the last Mass down at St. Michael's Church; that is 11:30.

Q But you don't recall when you left to go back to East Orange? A No, I do not.

Q Who was with Joe when you saw him on Monday? A Monday, July 19th?

Q Yes. A His sweetheart.

The Court: What time did you say you went to church? When was the last service?

Witness: 11:30.

The Court: 11:30?

Witness: 10:30 Mass.

*Frank C. Amore, cross.*

Q Who was with him when you saw him? A His sweetheart.

Q Anyone else? A No, sir.

Q He was in his automible? A Yes, sir.

Q What kind of a car was that? A His Cadillac.

Q Did he have a Studebaker? A No, sir, not that day.

Q Are you sure it was a Cadillac? A A Cadillac.

Q Where did you have your lunch that day? A Why, at the Oyster Bay on Broad street.

Q Where is the Oyster Bay on Broad street? A Why, it is just this side of the trestle of the D. L. & W. on Broad street.

Q On the west side of the street? A Going north; yes, sir.

Q Had you started for the Oyster Bay when you saw Juliano? A Well, I wouldn't say that I was starting for the Oyster Bay; I just happened to be standing in front of Armour & Company; I was just thinking of something; I don't know what I was thinking about, because that is the only time you have a chance to recuperate your mind.

Q And when you were standing in front, when you saw him, where did you see him? A Just as he was coming over Lackawanna avenue from Broad.

Q He was on Lackawanna avenue when you saw him? A Yes, sir.

Q Did he hail you or did you hail him? A I hailed him.

Q And he pulled up to the curb? A Yes, sir.

Q On the right-hand side of the street? A On the side of my end; that is, to his left driving in.



*Frank C. Amore, cross.*

Q Well, he was going west and pulled up at the south curb? A Yes, sir.

Q Have you many employees in the Armour plant on Lackawanna avenue? A Yes, sir.

Q How many? A Well, I should judge, that is the whole plant—you mean how many men work in the entire place?

Q Yes, in the Armour plant on Lackawanna avenue. A Oh, about seventeen, twenty or twenty-two men.

Q At that hour in the morning there are a good many trucks being loaded, aren't there, with beef? A No, sir; not at that hour in the morning.

Q When are they loaded? A They are loaded up early in the morning; sometimes 6:00, sometimes 7:00, and the latest is 8:00; maybe sometimes 9:00 o'clock.

Q Well, at that hour, then, the men haven't got much to do, have they, or a good many of them? A Well, some have a lot to do and some have nothing to do at that hour.

Q And those who have nothing to do are apt to stand around in front of the place, aren't they? A Not all the time; they are either upstairs packing away storage.

Q I say those who have nothing to do at that hour are apt to stand around in front of the place, aren't they? A Not in all cases.

Q Well, some of them do, don't they? A Well, only the salesman.

Q Are you the only salesman? A No, sir.

Q How many salesmen are there? A Four.

The Court: You work for the Armour Company?

Witness: Yes, sir.

The Court: And you spell your name A-m-o-r-e?

Witness: Yes, sir.

The Court: Now, with reference to this place you call the bakery, which bake shop do you mean on Drift street, the one nearest to Clifton avenue on the left-hand side going up, which would be the south side, or the one that was in the middle of the block?

Witness: Well, there are three baker shops on that block, your Honor.

The Court: You said you lived next door to one.

Witness: Well, where I live there is a baker shop there, one of the oldest in the ward.

The Court: Is that Valentino's?

Witness: Yes.

The Court: That is your uncle?

Witness: Yes, my mother's people.

The Court: Now, where is Grande's with reference to that?

Witness: He is up on the corner, on the right going up.

The Court: On the right near Clifton?

Witness: Just one house toward the corner, going up toward Clifton avenue.

Q And the Valentino people who own that bakery, they were your people? A Yes.

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ELIZABETH PORRETTI, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q You are a sister of the defendant Joseph Juliano? A Yes.

Q And you are married? A Yes.

Q And to whom are you married? A To Mr. Anthony Porretti.

Q Will you tell the Court and jury where you live? A I live 51 Clifton avenue.

Q How long have you been married? A I think it was four years.

Q Now, have you any children? A Yes.

Q How many? A One.

Q Do you spend any time over at your mother's house during the daytime? A Yes.

Q How often do you go there? A I go there every day.

Q Did you go there during July in the daytime? A I go over there every day.

Q What time did you usually go over there? A I go there in the morning.

Q About what time? A Between half-past eight and nine.

Q And where is your mother's house, Mrs. Porretti? A 260 Eighth avenue.

Q And what is the telephone number of your mother's house? A Humboldt 2842.

Q Were you, in the latter part of July, planning to go down to the seashore and take a house at the shore? A Yes.

Q Who was to go? Who was to get that house and for whose occupation was it to be? A My mother and myself and a few more sisters.

Q And your child, I suppose? A Oh, yes, surely.

Q Had you in the middle part of July yet gotten a house down there? A No.

Q Rented one? A No.

Q Were you planning to go down to the shore to rent a house to go there later in the summer? A Yes.

Q When did you plan to go to the shore last summer? A Oh, around the 4th of July, we said we would go down.

Q Yes, that is when you spoke of going down; when did you plan to go, when did you intend to be down there? A Oh, for a vacation?

Q Yes. A For the 1st of August.

Q How long in August? A Two weeks.

Q Now, the middle of July you said you had not yet rented a place? A No.

Q And did you make any arrangements to go down there? A On the 15th of July?

Q No. I said in the middle of the month you had no place yet? A No.

Q Now, did you at any time before the 1st of August make arrangements to go down and hire a house? A Yes.

Q How were you going to go down there? A By automobile.

Q Whose automobile? A My brother's.

Q That is Joe Juliano's? A Joseph Juliano's.

Q And did you speak to him about getting the machine? A Yes.

Q Who were you going to go down with? A With my mother and my sisters, and we had to have a few friends there and there was room enough in the car there, so we took them along.

Q Now, did you sometime in July actually rent a house for the first two weeks in August? A Yes.



Q What date did you rent that house? A The 20th of July.

Q And you are sure of that? A Yes.

Q Did you plan originally to go down on the 20th of July? A No.

Q What date did you plan originally to go down to the shore? A We were supposed to go down on Monday, the 19th.

Q And instead of that you went on the 20th? A Yes.

Q Now, how did you come to change your plans from the 19th to the 20th? A Because my brother called up and told us whether we wanted to go down that morning.

Q When did he call you up? A On the morning of the 19th, on Monday morning.

Q And where were you at the time? A At my mother's home.

Q And that number you said is what? A 260 Eighth avenue.

Q Yes, but what is the telephone number? A Humboldt 2842.

Q Now, did you go to the shore on that Monday? A No.

Q Why didn't you go? A Because when he called up and asked us if we were ready to go I told him that it was too late.

Q And what time of the morning was it when he phoned you? A About 10:00 o'clock.

Q And what time did you want to go to the shore? A I wanted to be down there about 10:00 o'clock.

Q You wanted to have a day to look for a house? A Yes, I said if it was a nice day we would bathe that day.

Q Now, what time did you leave the following day to go to the shore? A Well, I got over to

my mother's house a little after 7:00 and we did not leave until about 8:00.

Q And who drove you down to the shore the following day? A Tony Grande.

Q Now, who was it that you spoke to when you got that telephone call around 10:00 o'clock in the morning on the 19th? A My brother, Joseph Juliano.

Q You know his voice? A Oh, sure I do.

Q And he spoke to you about the—about the car? A Yes, he told me when I wanted to go down, and I looked at the time and I said it was too late.

Q And you know it was around 10:00 o'clock? A Yes.

*Cross examination* by Mr. Fisch.

Q Who else was home when you got that phone call? A My mother.

Q Anybody else? A No, nobody else home in the daytime.

Q Just your mother and you? A Yes.

Q How about Miss Genevieve? A What do you mean by about Genevieve?

Q Who is Genevieve? A My youngest sister.

Q How old is she? A She is nineteen in September.

Q And the telephone is listed in her name, isn't it? A Yes.

Q So that it is your sister's telephone? A Yes, she works down in the telephone building.

Q And how many telephone calls did you get that morning at your mother's house? A Well, the only one that I remember is from Joe.



Q Well, how many times did the telephone ring that morning? A That's about the only one that I could think of.

Q There may have been some other calls that you would not remember about? A I don't think so.

Q Eh? A I don't think so.

Q Well, you have said that that is the only one that you can remember? A Well, that is why I remember it, because I spoke to him and I answered the call.

Q But there may have been some other calls that I say you would not remember coming in? A I don't think so.

Q You don't think so? A No, because I always answer the calls when I go to my mother's house.

Q And were you at your mother's house the day before? A I am always over there.

Q Well, then you were the day before? A Yes.

Q And were you there at 6:00 o'clock the day before? A The day before, yes.

Q And did you see your brother there at that time? A I seen my brother there for dinner in the afternoon.

Q For dinner in the afternoon? A Yes.

Q And did you speak to him then about going to the shore? A I did, and he said he would let us know; he said he would let us know whether he could get us the car.

Q Did he tell you he had a date or engagement? A I didn't talk to him about an engagement.

Q He did not tell you anything about it? A No, sir.

Q And on Sunday at dinner you knew that you wanted to go to the shore the next morning, you say? A Yes, sir.

Q And he knew that you wanted to go to the shore the next morning, you say? A Yes.

Q And you were making arrangements then for him, weren't you? A Yes.

Q And in spite of that you did not make definite arrangements about his taking you? A No.

Q Is that right? A Yes.

Q So that you did not know then whether you were going to the shore the next morning or not? A He told us he would let us know whether he could let us have the car.

Q You didn't know on Sunday whether you were going to the shore or not? A If he could send the car the next morning, then we could go.

Q And did he tell you where he was telephoning from? A My brother?

Q Yes. A No.

Q And you do not know then where he was 'phoning from, do you? A No.

Q Do you? A No, sir.

Q Now, you went to the shore the next day? A Yes, sir.

Q What time did you leave? A About 8 o'clock.

Q Eight o'clock in the morning? A Yes, sir.

Q What time did you get there? A About ten.

Q To Long Branch? A Yes, sir.

Q And I suppose you know where Gillie Grande's place is? A Well, I know it, not that I go over there.

Q What is that? A I know it, sure.



Q What did you say about going over there? A Not that I go over there.

Q You don't go over there? A No, sir.

Q But you know that your brother goes over there? A Oh, yes.

Q And you know that he is there quite frequently? A Yes, sir.

Q And often times people call up for him when he is not at home?

Mr. McGeehan: I object to that as not cross examination.

The Court: Sustained.

Q Do you know Catherine D'Amato? A Yes, sir.

Q And do you know that Catherine D'Amato was living with your brother? A Yes, sir.

Mr. McGeehan: I object as that is not a proper question and there is nothing in that testimony—

The Court: Sustained.

Q And isn't it a fact that Catherine D'Amato called up that house that morning to ask for Joe? A Catherine never calls up the house for Joe.

Q You are Joe's sister? A I am.

*Re-direct examination* by Mr. McGeehan.

Q Did you see Joe, Mrs. Perrotti, your brother Joe, late that afternoon? A The 19th?

Q Yes. A Yes, sir.

Q Who did he come along with? A With Ruff and a girl sitting in the car.

Q The defendant Ruff, Capozzi, and a girl? A Yes, sir.

Q Did you know that girl at all? A No.

Q Did you see what kind of a car he came in? A A big gray car.

Q Where were you sitting at the time? A I was on the front stoop with the baby.

Q Your baby? A Yes, sir.

Q And you saw Joe get out of the car? A Yes, sir.

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CATHERINE D'AMATO, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Mrs. D'Amato, you are a widow? A Yes, sir.

Q How long have you been a widow? A I have been a widow six years August.

Q And you are a sister of the defendant young Joe Juliano? A Yes, sir.

Q And you are a friend of the defendant Joseph Juliano? A Yes, sir.

Q How long have you gone out with Joseph Juliano? A Going out with him for four or five years.

Q And during that time you have gone out with him have you gone out with him frequently? A Yes, sir.

Q And were you with him at times during the summer of 1926? A Yes, I have.

Q And where did you live at the time in the early part of the summer in 1926? A The early part of the summer?

Q Yes, who were you living with, where did you live in July? A With my mother.



Q Has Joseph Juliano ever visited you at your house or spent any time with you in your home? A No, sir.

Q Have you ever been out with your brother in his company? A No, sir.

Q Did you ever know him to go out with your brother, young Joe? A No, sir.

Q You have met him with the defendant Chris Barone, haven't you? A Yes, sir.

Q And you have met him with the defendant Capozzi? A Yes, sir.

Q Now, do you remember going out with him on several occasions in the month of July? A I have.

Q Do you remember going with him on a Sunday night in July? A Yes, sir.

Q You don't know what date it was that you went with him to some hotel? A The 18th of July.

Q Were you with him on the 18th of July? A Yes, sir.

Q And what hotel did you go to with him? A The Berwick Hotel.

Q Do you know under what name he registered there with you? A Under the name of Thomas Jones.

Q And were you registered as his wife? A As his wife, yes, sir.

Q Did you go to a room with him? A Yes, sir.

Q How long did you stay in that room with him? A We were there all night.

Q When did you leave that room? A We left the room about 11:30 o'clock, or twenty-five minutes of twelve, I just don't remember.

Q How do you know what time it was? A Well, when I first woke up it was a little after

9 o'clock and he told me he would like to take a bath, so I went to the bath room and I got the water ready for the bath, so I judge I was in there for an hour and a half or two hours before I left.

Q During the time that you were in the room did you hear him make any telephone calls? A When I first got up he got up after me, I saw him go to the 'phone, but who he called up I don't know.

Q You were fixing the bath? A I was fixing the bath.

Q When you left that hotel with him—by the way, do you remember whether you had anything to eat while you were in that room? A Yes.

Q When? A Well, we were in there quite awhile before we called the bell hop, just at what time I don't remember.

Q What did you get, what did you have to eat? A We had two ham sandwiches—ham and egg sandwiches and coffee.

Q And when you left there the following day where did you go? A He took me home.

Q And that home was your mother's home? A My mother's home.

Q Do you remember meeting any one near the hotel? A Yes.

Q Whom did you meet? A I met Mr. Frank Amore.

Q You know him pretty well? A Yes, I do.

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

Q By the way, has his wife made dresses for you? A Yes, she has.

Q How long have you known his wife? A I know his wife for about five or six years.

Q Are you a good friend of hers? A I am.



Q Do you know when her birthday is? A I do.

Q How do you know that day? A By her being a friend of mine and her inviting me different times to her parties when it was her birthday.

Q Have you ever gone up to their house? A I have.

Q When you met Mr. Amore on that morning, where were you, what were you doing? A I was sitting in the car.

Q Who was driving it? A Joe.

Q What kind of a car was it? A Cadillac.

Q Was it a closed or open car? A Open car.

Q Was that the car he always drove? A Yes.

Q And where did he take you; did I ask you where he took you? A He took me home to my mother's home.

Q Have you any doubt of that being the morning of the 19th of July, 1926? A What was that?

Q I say have you any doubt of that being the morning of the 19th of July, 1926? A Yes, I can recall it because it was my lady friend's birthday on the 18th.

Q What was it that you talked about when you met Mr. Amore that morning? A There was not much said. He just asked when we were going on our vacation and we just said in August.

Q Well, was there anything said about his wife's birthday? A Yes, he spoke about his wife's birthday.

Q Well, when was his wife's birthday, when you met him? A On the 18th of July.

Q Well, how long before was it? A The day before.

Adjourned until tomorrow, Saturday, November 27, 1926, at 10 o'clock A. M.

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ELEVENTH DAY.

Appearances as before stated.

Trial continued.

Mr. McGeehan: I want to say to the Court and prosecutor that early yesterday, around 2 o'clock we saw the sister or the aunt of the young lady, Miss Barton, and got her to consent to our sending a telegram to Cincinnati in her name and it read, "Very important, you arrange to come to Newark immediately. Money on way for fare. Take first available train. Will explain upon your arrival." We also sent a Western Union money order for sixty-five dollars accompanying it, and have made arrangements with Mrs. Malan, who lives at Sherman avenue, to notify us on the arrival of the young lady. I do not think there is anything more we could do to get her here.

THOMAS J. OSBORNE, recalled.

*Cross examination* by Mr. Bigelow.

Q You testified, as I recall, that you followed the bandit car north on Mt. Pleasant avenue and then west one block and having lost sight of the car, you returned to Mt. Pleasant



avenue and south to Clay street and west on Clay street to the corner of Broad, where you met a deputy chief of the fire department; that is substantially correct, is it not? A Yes.

Mr. Bigelow: Chief Lynch, will you please stand?

Q Is this the gentleman you saw? A That is him.

Mr. Bigelow: Indicating Deputy Chief George F. Lynch.

Q Didn't Chief Lynch ask you what kind of looking fellows were they and which way did they go and didn't you reply to him, "I didn't see them, but someone in the crowd told me that they went up Mt. Pleasant avenue in a blue car, number 1926"? A No, sir.

Q Didn't he ask you substantially that question and wasn't that substantially your reply? A No, positively not.

Q Then the chief got in your car, did he not? A He did.

Q And you drove him up Broad street to Fourth avenue? A On Belleville. He got off on the car tracks, right near the Catholic church. He got off on the right-hand side and said he had to make a telephone call.

The Court: What was that, Fourth avenue?

Witness: Before you get to Fourth avenue.

Q Did you go up Broad? A Up Belleville.

Q You didn't go up Broad at all? A No.

Q Didn't you go up Broad as far as the Normal School, that is Fourth avenue, and then west over Fourth avenue to Belleville and up Belleville a block or two to Kearny street and then back to where you started at Broad and Clay? A He got off before we got to Fourth avenue.

Q Did he leave you there? A He did. He said he had to make a telephone call.

Q And he didn't come back with you? A No.

Q That is the last you saw of him? A I saw him down at the Reid company when I come back again. I went up Belleville avenue probably as far as the cemetery and I was going up to the Spring Sash and Door Company in North Newark, but I didn't get that far.

Q But you left him at Belleville avenue near the Normal School? A Yes.

Q And you met him fifteen or twelve minutes later? A Probably twenty.

Q At the Reid plant? A He was just coming down those little steps of the porch at the Reid plant.

Q Now, at any time while you were with him, did you mention having chased this bandit car before you saw him? A I told him the whole story just as I tell it here in court. I repeated the same thing a hundred times.

Q And you told him you saw these men? A I told him just as I have told you here.

The Court: Just answer the questions.

Witness: Yes.

Q Didn't he ask you what kind of looking men they were, and didn't you reply that you did not see them? A No, I didn't.



CATHERINE D'AMATO, resumes the stand.

*Direct examination* by Mr. McGeehan (continued).

Q Mrs. D'Amato, on the day you testified you went to the Hotel Berwick, were you to Loew's Theatre before that? A Yes, sir.

Q Did you also take a ride sometime after meeting Joseph Juliano? A Well, we first went to Loew's—

Q Now, I asked you did you also take a ride between the time you met him and the time you went to the hotel? A Yes, sir.

Q What is your recollection as to which took place first, the going to Loew's or the ride, what do you think you did first? A We went to Loew's first.

Q And after that you took a ride? A Yes, sir.

Q And then went to the hotel? A No, sir, we had something to eat.

Q Do you remember where you ate? A The St. Regis.

Q Is that on Broad street? A Yes, sir.

*Cross examination* by Mr. Bigelow.

Q Mrs. D'Amato, do you recall being in the hotel on Sunday night when Juliano signed the register? A Yes, sir.

Q Where did he sign the register, what part of the building—I am not familiar with the Berwick? A Walking in on the left-hand side.

Q On the same level with the street, or approximately the same? A Yes, sir.

Q There is a desk there, a desk where he signed? A Well, there is a big thing there, I don't know if you call that a desk.

Q A long counter? A Yes, sir.

Q Now, where were you when he was signing his name? A Standing alongside of him.

Q You were alongside of him? A Yes, sir.

Q And then after he had signed where did you and Juliano go? A We got on the elevator.

Q Where is that elevator with reference to the long counter where he signed the register? A Well, he walked in right where the counter is it is right over that way (indicating).

Q Across the hallway from the counter? A Yes, sir.

Q And as soon as he had registered you walked over to the elevator and got into the elevator, I suppose? A Yes, sir.

Q And went upstairs? A Yes, sir.

Q Did you notice who drove the elevator, was it a man or a woman? A I think it was a man that night; I am not quite sure.

Q Did you notice whether anybody else went up in the elevator with you? A No, just I, him and the one that drove the elevator.

Q No bellhop? A I just can't remember whether it was a bellhop or a girl that took us up.

Q But you don't think that in addition to who ever managed the elevator that there was another bellhop? A No, nobody else.

Q Was your room near the elevator? A No, we had to walk across the hall.

Q Now, in the morning, how long was it that you left the hotel that you started to prepare the bath? A About an hour and a half or two hours.



Q How long had you been awake at that time? A Well, no more than I woke up I went in the bath-room and I got the water ready for a bath.

Q As soon as you woke up? A Yes, sir.

Q Do you recall whether you woke up first or did Juliano? A No, I woke up first and he got right up after me.

Q He was still asleep, you remember that he was asleep when you woke up? A No, we were both awake, but I got up first and he got up after me.

Q So when you woke up, when you noticed him first was he awake? A We both woke up together, I woke up first and called him, and we were both awake laying in bed.

Q Then you woke up first and wakened him? A I woke him up first, yes.

Q And then you got up and fixed the bath? A Yes.

Q And that was approximately an hour and a half before you left the hotel? A Yes.

Q Do you recall looking at a watch or clock during that period? A No, I didn't.

Q Now, on Sunday, where and when did you first meet Juliano? A I met him on the corner of Clifton avenue and Drift street.

Q At about what time? A It was about—well, between 3 and 4 o'clock. I just can't recall the time.

Q Did you have an appointment to meet him then? A Yes.

Q When had that appointment been made? A He made the appointment with me a day before.

Q By telephone? A No, I saw him on Drift street.

Q You saw him on Drift street on Saturday? A On Saturday.

Q And made an appointment for Sunday afternoon? A Yes.

Q Do you recall what hour you were to meet him on Sunday afternoon? A No, I was to go to meet him at 3 o'clock.

Q Four? A I was supposed to meet him at 3 o'clock.

Q On Clifton avenue near Drift street? A Yes.

Q How far is that from your home? A About a block away.

Q Well, where did you live? A I lived at 29 Aqueduct Alley.

Q How far is that from Mrs. Perrotti's home, do you know? A About a block and a half.

Q She lived at 51 Clifton avenue? A Well, she lived right around the corner.

Q Now, where did you go with Juliano after you had met him on Sunday afternoon between 3 and 4? A We went to Loew's.

Q He had his Cadillac car with him? A Yes.

Q And you got in the car and drove down to Loew's? A Yes.

Q Was the chauffeur, Tony Grande, along? A No.

Q And he was not with you? A No.

Q Where did you leave the car down at Loew's? A We parked it on a side street. I think it was New street.

Q And then you went into the theatre? A Yes.

Q Where did you go on the drive afterwards? A We went up toward Caldwell.

Q Did you go as far as Caldwell? A Yes.



Q Did you go beyond Caldwell? A Not that I recall. We took a ride for almost an hour and a half, but just where we went, I don't know.

Q And then back to the St. Regis restaurant? A Yes.

Q Isn't that restaurant on Park Place, right opposite the Tubes? A I just cannot recall where the restaurant is, but I know it is somewheres downtown, but I do not know just where.

Q You had dinner there? A No, we just had pastry and coffee.

Q About what time was it you arrived there? A We arrived there between half-past nine and nine fifteen—half-past nine.

Q You got to the theatre sometime between 3 and 4 or sometime before a few minutes after 4, did you not? A Well, around 4; half-past 4.

Q And I suppose the show there is about two and a half hours long? A Yes.

Q So it would have been about half-past six when you left? A Yes, about that time.

Q It was still light, wasn't it? A Yes.

Q And you took a drive for about an hour and a half, that would take you to about 8 o'clock? A Well, about an hour and a half or two hours. I cannot remember how long we were riding.

Q Well, was it still light, do you recall? A It was getting dark when we went into the restaurant.

Q And at the restaurant you had some pastry and coffee? A Yes.

Q And then went to the hotel? A Yes.

Q How long were you in the restaurant eating the pastry and coffee? A Well, we stayed in there quite a while talking.

Q A half an hour? A About that.

Q And you went direct from there to the hotel? Is that right? A Yes.

Q And that was when you registered? A Yes.

Q Now, think hard. Are you sure that you were with Juliano when he registered or did you come in later? A No, I was with him.

Q And as soon as he registered you went on upstairs? A Yes.

Q Are you sure of that? A Yes.

Q You say you think it was just getting dark when you got to the restaurant? A Before we got there it was dark, yes, sir.

Q Was it a fine evening? A I cannot recall, I do not remember.

Q Do you recall anything about the weather that afternoon that you were driving? A Well, I know it was real warm because I wore the lightest dress I had.

Q What kind of a car was this—I know it was a Cadillac, but the style? A It is a touring car.

Q An open car? A Yes, sir.

Q And you had the lightest dress on that you had? A Yes, I know it was real warm that day.

Q You did not have any overcoat on? A Oh, no.

Q Or any rain coat? A No, sir.

Q And you sat in front with Juliano? A Yes, sir.

Q About how often a week did you see Juliano last summer? A Well, I used to see him most every night.

Q Early in the summer did you see him most every night? A Well, I wouldn't exactly see him every night, no.



Q Well, now, how did you get in touch with him so as to know where to meet him the next day or two or three days later if you had not seen him, did he telephone you? A No, sir.

Q He never telephoned? A No, sir.

Q Did he send you messages by Tony? A No, sir.

Q Did you telephone him? A No, sir.

Q Did you send him messages in any way? A Well, I make it my business to see him.

Q He wasn't always in one place, was he? A Well, when I would not see him there I would wait until he came around.

Q You would wait until he came around? A Yes.

Q But he never came to your house? A Oh, no.

Q And where would you wait for him? A Well, I know that he used to hang around Drift street and I used to go there and see if he was there.

Q You used to wait where on Drift street? A In Grande's Cafe.

Q That is Gillie Grande's? A Yes, sir.

Q Well, you did not go in the cafe, did you? A No, I sent a little boy in to see if he was there.

Q And that is the way you got in touch with him? A Yes, sir.

Q You did not ever telephone? A I would call up there sometimes, but not all the time.

Q You would call up there sometimes but not all the time? A Yes, sir.

Q Where else would you call? A That is the only place I would call up.

Q You knew where he lived, didn't you? A Yes, sir.

Q And you knew there was a telephone there? A Yes, sir.

Q And you have been going with him four or five years? A Yes, sir.

Q Didn't you ever in that period call him up at his home? A No, sir.

Q Now, at the hotel that night, did you see the boy, if it was a boy, bring sandwiches, or were you perhaps in the bathroom or otherwise away out of the room when they arrived? A I know there were sandwiches delivered, but I did not see them delivered.

Q You did not see them delivered? A No, sir.

Q Did Mrs. Amore invite you to her birthday party on the 18th? A No, sir.

Q I thought you said she frequently asked you to her birthday parties? A At different times, yes, but not this year; I did not see her.

Q This year she did not ask you? A Well, I did not see her.

Q You knew it was her birthday? A Yes, sir.

Q And she lived quite near you, didn't she? A No, quite a ways from where my mother lives.

Q She used to make dresses for you? A Yes, sir.

Q Did Juliano pay for those dresses? A I would pay myself.

Q You were not working during the past summer, were you? A Well, I have been working off and on, because I haven't been feeling well.

Q Because what, I did not catch that. A I am not feeling well.

Q Where did you work in July? A In July I was not working.



Q You were not working at all in July? A No, sir.

Q Have you worked since then? A Well, I haven't worked now it is almost a year; mother has been taking care of me; I am not feeling good.

Q Well, you have gotten dresses within that year, haven't you? A No, I have not.

Q When you left the room that morning of the 19th, did you and Juliano leave together, or did he go down and wait for you in the lobby or did you go down and wait for him in the lobby? A Well, I was putting on my hat and he told me he would meet me down in the lobby.

Q You were putting on your hat and he went ahead of you? A Yes.

Q And when you got down there, did you see him in the lobby? A Yes.

Q And then what did you and he do? A Well, I went out to the car and he come over a few minutes after I did.

Q Did he come out alone? A Yes.

Q He did not come out with Mr. Maffie? A I didn't see him.

Q You are sure you did not see Mr. Maffie? A Yes.

Q Did he have anybody else with him? A No, not when he come to the car, no.

Q You are sure about that? A Yes.

Q What package, if any, did you take to the hotel Saturday night? A Well, I know I had a package, but they were my belongings.

Q Paper package? A Yes, and then I had put it in the bag.

Q You had put the paper package in a bag? A It was wrapped up and I put it in a bag.

Q What was it? A I had a night-gown and cap.

Q What kind of bag? A Paper bag.

Q So your belongings were wrapped up and put in a paper bag? A Yes.

Q And you still had the paper bag, I assume, when you left the next morning? A Well, I don't just remember whether I had the bag with me or not. I cannot remember that.

Q Well, you did not leave your things at the hotel? A Well, I can't recall that.

Q You do not know whether you forget them? A Well, I know I had my things. I took them out of the car when I got home.

Q You took them out when you got home? A Yes, they were in the car when I got home.

Q Do you recall whether they were still in the paper bag? A They were in the bag.

Q Have you been to the Berwick any other times except this? A Yes.

Q Both before and after this? A Yes.

Q How recently have you been there? A Well, I cannot just recall the time I was there.

Q Well, you have not, of course, been there since October 17th? A No. I was living by myself in October.

Q And you were not there for sometime before October 17th? A Well, in September I was also living by myself.

Q Where were you living by yourself in September? A In September I was living on Mt. Pleasant avenue.

Q You were living on Mt. Pleasant avenue? A Yes.

Q How long had you been living there? A I had been living on Mt. Pleasant avenue about four weeks.

Q Well, where did you live before that? A Well, before that I was living with my mother.



Q Up on Drift street? A Yes—not Drift street, Aqueduct Alley.

Q Didn't you once live on North Broad street? A Yes, in October.

Q In October you were living on North Broad street? A Yes.

Q What was that number, 124? A 181 North Broad.

Q You and Juliano lived there? A Yes.

Q Do you recall whether you went to the Berwick in September? A No, in September I was living by myself.

Q Were you in the Berwick in August, do you recall? A I believe I was, but just cannot recall.

Q With Juliano? A I believe I was. I just cannot remember.

Q Well, you never went there except when you went with him? A That is the only time.

Q Had you been there with Juliano before July 19th? A Yes, I had.

Q And he had registered under the name of Thomas Jones and wife, or some similar name? A Well, sometimes he would register under the name of Thomas Henry.

Q About how many times altogether had you been there with him? A Well, I just cannot remember how many times.

Q A number of times? A I have been there a number of times.

Q Under what name, Miss D'Amato, did you live on North Broad street? A Under the name of Mrs. Martin.

Q And Juliano was known as Mr. Martin? A Yes.

The Court: Do you know Guili Grande's number?

Witness: Yes.

The Court: What is it?

Witness: Mitchell 0936.

The Court: Do you know the number of Joe's home?

Witness: No, sir.

The Court: You don't know that?

Witness: No.

The Court: Never looked it up?

Witness: Never did; in fact, I never called up.

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JOHN J. MURPHY, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Murphy, how old are you? A Twenty.

Q Where do you live? A 50 Bleecker street.

Q Newark? A Newark.

Q Married or single? A Single.

Q Do you live with your parents? A My mother, my father, yes.

Q Where were you employed on July 19, 1926? A 81-85 Clay street.

Q Have you seen this map? A Yes, sir.

Q This building is 81-85 Clay street? A That's right.

Q That's where you worked? A Yes, sir.

Q And what floor of that building did you work on? A Third floor.

Q I show you Exhibit S. 10 and ask you if this is a picture of the building where you worked? A It is.



Q Will you point to the window that you are going to speak about? A Here (indicating).

Q You indicate an upper floor window about the center of the building; is that right? A Yes, sir.

Q And that would be on the map about there (indicating)? A Yes, sir.

Mr. Bigelow: Would that be on the second or third floor?

Mr. McGeehan: The third floor.

Q Who did you work for, Mr. Murphy? A Why, Thomas H. Cox & Son.

Q What line of work are they in? A Printing.

Q How long have you worked for the Cox firm? A A year and a half.

Q Who else do you know works there? Does a Mr. Henry work there? A Yes, Mr. Henry works there.

Q Was your attention attracted to anything unusual or to any persons in the vicinity of that factory on the 19th of July? A Why, Mr. Henry called my attention to two men.

Q What did he call your attention to? A Two men standing on the corner of Clay and Mt. Pleasant avenue.

Q Did you look and see those men? A I did.

Q Now, what corner of Clay and Mt. Pleasant avenue were they standing on? A On the northwest corner.

Q That would be this corner (indicating)? A That's right.

Q That is where the gas station is? A Yes, sir.

Q And that would be down from and slightly to the left from where your window was that you looked out of? A Yes, sir.

Q Now, what time, approximately, was your attention first called to these men standing there? A I guess it was about nine o'clock.

Q About nine in the morning? A Yes, sir.

Q What did you do when your attention was called to them? A I looked down at them and went about my work.

Q And do you know whether they continued to stand there? A Well, my attention was called about three times altogether, I think it was, by Mr. Henry there.

Q About three times to these men there? A Yes, sir.

Q And who called your attention all those times to those men? A Mr. Henry.

Q How many times did you look at these men that were standing there? A About three or four times, I guess.

Q Over what period of time? A Over an hour.

Q And were they there each time you looked out? A They were.

Q Did you get a very good look at those men? A Fairly good.

Q Did you pay any particular attention to those men? A No, no particular attention.

Q What made you look at them—what did you think they were?

Mr. Fisch: I object.

The Court: Sustained.

Q Did you pay—did you look at them the three or more times that you did—did you do that with any idea in mind as to who they might be? A No; once we were joking up there and I said they are going to hold up Reid's—



Mr. Fisch: I object.

Q You were joking when you said that? A Yes, sir.

Q And you saw them standing there and that is how you looked at them; is that right? A Yes, sir.

Q Were you joking about anything else that they might be? A No, sir.

Q Now, when you looked at them you say you got a fairly good look at them. What did the two men look like? A Do you mean their appearance?

Q What did the two men look like? A You mean their appearance.

Q Yes. A One man was about six feet tall and I should judge about 180 pounds, and he had a blue suit on and a straw hat with a red band and he was light complexioned.

Q And you say he was about six feet and 180 pounds? A About that.

Q Was he small or medium or heavily built? A He was very nice build.

Q Did you get a look at the other man? A I did.

Q How was he built? How did he look? A He was about five feet seven and he was a little slighter built, and a blue suit and panama hat, and he appeared to be older than the taller man.

Q He was a little older than the other man? A Yes.

Q You have seen the defendants sitting here in this case? A I have.

Q Are any of those defendants either of the men you saw? A They do not appear like them.

Q You were before line-ups, were you not, in police headquarters? A One line-up.

Q And you were subpoenaed here by the State as a witness in this case? A I was.

Q And not called by the State? A I was not.

*Cross examination* by Mr. Fisch.

Q Now, Mr. Murphy, you were interviewed by the detectives, weren't you? A Yes.

Q And you made a statement to the detectives? A Yes.

Q And you witnessed the line-ups? A I did.

Q And you say that these defendants—none of these defendants appear like the men you saw? A Right.

Q You are not sure whether they are or whether they are not?

Mr. McGeehan: I object.

The Court: I will allow this.

A They do not look like them.

Q You say they do not appear like them; that is right? A That is what I said.

Q You are not sure whether they are or whether they are not? A They do not look like the same men.

Q Well, are you sure they are the same men, or are you not sure that they are or are not?

Mr. McGeehan: Well, the witness testified—

The Court: This is cross examination.

Mr. McGeehan: I object on the ground it is not proper cross examination.

The Court: Proceed with the examination, Mr. Prosecutor.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi



prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q (Question read.) A The men I saw did not look like them.

Q What is that? A The men I saw did not look like those men.

Q Well, you were up on the second floor, weren't you? A Third floor.

Q And you were looking down, weren't you? A Yes.

Q And you did not pay any particular attention to them, did you? A I just looked at them.

Q Eh? A No particular attention.

Q Just took a glance? A That is all.

Q And you were working? A I was.

Q What was your job there? A I am a pressman.

Q And you were working on your press? A Yes.

Q You had work to do, didn't you? A Yes.

Q And you didn't pay any particular attention to them except to take a glance? A Yes, a glance.

Q You did not study them out? A No.

Q Or photograph them in your mind? A Not exactly.

Q Eh? A No; if I saw them in the same clothes I might know them.

Q If you saw them in the same clothes you might be able to tell? A I might.

Q And if you saw some of these defendants dressed in the same clothes that you saw those

two men in, then you might be able to tell that they were the men? A I could tell better.

Q So that the clothes were what gave you your impression as to what they looked like; isn't that correct? A I think I looked more at the clothes than I did the face.

Q And you looked more at the clothes than you did their faces; is that correct? A Yes.

Q Now, did they have double-breasted suits on? A Yes.

Q Eh? A Yes.

Q Both of them had double-breasted suits? A Yes.

Q And you noticed that they both had straw hats on? A One had a Panama and one had a sailor.

Q A stiff hat? A Yes.

Q And you were particularly interested with regard to their clothes? A Well, you could see their clothes at a glance.

Q And that was what attracted your attention? A Well, I saw that they were neatly dressed.

Q They were neatly dressed? A Yes.

Q Now, I show you Exhibit S. 26 for identification and S. 15 in evidence and ask you whether you can tell me whether the men that you saw looked like any of the men on either of those photographs? A I do not.

Q You don't recognize any of them? A No.

Q You cannot tell whether they were or were not the men; is that it? A I am sure they were not.

Q You are sure they were not? A That's right.

Q Look around this court room and see whether or not you see any man or men in this



court room who you say look like the men that you saw that day? A I don't see anyone.

Q Now, look carefully, please. A I don't see anyone.

Q You don't see anyone at all? A No.

Q Does that look like any of the men you saw (indicating Valentine H. Schnell)? A No.

Q Does that look like one of the men you saw? A No.

(Indicating Hugh A. O'Gorman.)

Mr. McGeehan: He is a detective.

Q Does that look like one of the men you saw? A No.

(Indicating Charles Morbach.)

Q Will you stand up, please—does that look like one of the men you saw?

Mr. McGeehan: I object, if the Court please.

The Court: Sustained.

Mr. Fisch: I think, your Honor, that this is proper cross examination on the question of taking this witness' credibility.

The Court: No, unless there is some notion—

Mr. Fisch: I will state to your Honor that it is.

Q Does that look like one of the men you saw?

Mr. McGeehan: Who is he? Let him come forward.

The Court: Can you see from where you are?

Witness: Yes, sir.

Q Does that look like one of the men? A He is built similar to him.

Q Turn around, please; what do you say now? A He is built something like that.

Q You are sure about that? A Yes, sir.

Mr. Fisch: (Addressing man in audience) What is your name?

(The man in the audience answers "Carl Bielke.")

Q That man that you saw on the corner had a hat on? A Yes, sir.

Q And this man, you say, is built similar to him? A Yes, sir.

Q What kind of a hat did he have on? A A stiff straw hat.

Q Now, didn't you see this same man in the line-up (indicating Bielke)? A Yes, sir; I think he was standing there.

Q You did not identify him, did you? A I did not.

Q You did not say then that he was built similar to the man which you saw? A I did not.

Q And you knew when you saw him today that he was the man that was in the line-up, didn't you? A No; not until you said it was Carl Bielke.

Q Oh, not until I said it was Carl Bielke; then you knew? A Yes, sir.

Q But when you saw him in the line-up you did not know that he looked like or was built similar to the man that you saw, did you? A They didn't ask me.



Q Well, did you know? A No; I did not take a very good look.

Q Well, you went down there for the very purpose of taking a good look, didn't you? A I was.

Q And you did not take a good look? A No, sir, not so good.

Q Did you take a good look at the photographs? A I did.

Q Was his picture on one of those photographs? A I think it was.

Q And you did not recognize it from the photograph, did you? A No, sir.

Mr. McGeehan: I object. He does not say he recognized him; he says he is built like the man.

The Court: In so far as his recognition goes.

Q And he is No. 1 on S. 16 in evidence, is he not, now that you look at him? A Yes, sir.

Q And you did not recognize him as looking like the man or being built similar to the man that you saw on the corner when I show you the picture, did you? A No, sir.

Q But when he stood up in court you recognized the fact that you had previously seen him in a line-up, didn't you? A Yes, sir.

The Court: Did you see an automobile in front of this building?

Witness: No, sir.

The Court: Did you see a Pierce-Arrow car?

Witness: No; only when it was going up the street.

The Court: Did you see a truck belonging to the Albert Company at any time in front of the factory?

Witness: No, sir.

Q You were asked by the police, weren't you, to go out of town to look at various pictures in police galleries, rogues galleries? A I was.

Q And didn't you tell them there would not be any use of your going because you would not be able to identify the men that you saw? A I might have.

Q Well, didn't you tell them that? A I think I did.

Q And that was the truth, wasn't it? Wasn't that the truth? A Well, I might not know from pictures.

Q Wasn't it the truth when you told the police that there was not any use of your going around with them because you would not be able to pick out the men if you saw them? A I think I did.

Q And that was the truth, wasn't it? A I wouldn't say it if it was not.

Q What is that? A I wouldn't have said it if it was not.

Q Now, you did go over to New York, didn't you? A I did.

Q With the police for the purpose of looking at a line-up? A No; to see Fat McKenna.

Q To see some man that they had in custody over there? A Yes; but it was not in the line-up.

Q Well, you did not go in the building, did you? A Sure I went in the building.

Q You did not go to look at any line-ups? A No. I saw one man.



Q And you told the police there was not any sense of looking at any line-ups because you would not be able to recognize anybody?

Mr. McGeehan: I object. That is a question overruled on the State's case. You told the policeman—

The Court: You want the specific policeman?

Mr. McGeehan: Yes, sir.

The Court: Do you know the policeman's name?

Q Didn't you tell Detective O'Gorman that there would not be any sense in your looking at any line-up, because you would not be able to recognize any of the men? A He did not tell me to look at any line-ups.

Q Didn't you tell Detective O'Gorman that there would not be any sense in looking at a line-up over in New York because you would not be able to pick out any of the men, you would not be able to recognize them? A I do not remember saying that.

Q You would not say you didn't say it? A No; I wouldn't say I didn't.

*Re-direct examination* by Mr. McGeehan.

Q When you did go to New York, did you go into the Tombs? A No.

Q Did you go into some prison over there? A No. We drove over and went to headquarters and Mr. Kenny went in and he found out where we had to go.

Q Well, did you go in? A I went in later on to headquarters.

Q Did they show you a man there that you referred to as Mr. McKenna? A No; we went away up to Harlem, I think it was 186th street, to a court up there.

Q Well, did they show you in New York a man named McKenna? A Yes.

Q And was anyone else there at that time from Newark with the detectives to look at this man McKenna with you? A There was.

Q Eh? A Yes.

Q Who was the other person? A Mr. Henry and Mr. Bingham.

Q Did anybody pick out McKenna, do you know? A No.

Q No one picked out Mr. McKenna of you three? A No.

Q I think you said that when you heard that that man's name was Bielke then you remembered that he was in the line-up. You have heard his name mentioned here? A Yes.

Q But when you looked at various men that Mr. Fisch had stand up and you saw them, and before you heard his name, did you know that he was Bielke? A No.

Q Did you know then that he was in the line-up? A Not when he stood up.

Q So it was your recollection of the appearance of the man that made you say he looked like him; is that right? A That is right.

Q You were not in headquarters when Seigel put his hand on that same man, were you, at any time? A Well, I don't know. You see, each witness went in one at a time.

Q Oh, I see, you wouldn't know what happened when you were not there. When these men stood up you didn't know that Bielke was a companion and friend of Boudreau this morning? A Not when he stood up. When I heard his name I knew I read about it.



The Court: Oh, when you heard his name you knew you read about him?

Witness: Yes, sir.

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PHILLIP HENRY, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Henry, where do you live, please? A 31 John street, Kearny.

Q Where are you employed? A Thomas Cox & Sons, 81 Clay street.

Q Printers, printing establishment? A Yes, sir.

Q Married? A Yes.

Q Any children? A One.

Q Were you employed there in July, 1926, last July? A Yes, sir.

Q Did you work in the same place that the previous witness worked? A Yes, sir.

Q Mr. Murphy? A Yes, sir.

Q And are you the man who was at the window with him at various times that morning? A Yes, I called his attention.

Q You called his attention to what? A To two men standing on the corner by the gasoline station.

Q What attracted your attention, then, Mr. Henry, what made you look at them particularly or call Murphy's attention to them? A I can't tell you that.

*Philip Henry, direct.*

Q But you were standing there, what was it about the way they stood that interested you? A I don't recall, I cannot recall that, what made me look at them.

Q Was there something about the way they stood there that made you call his attention to them? A I looked at them about twenty minutes after eight and again at nine o'clock; I think that is what made me call his attention to them.

Q Because they were standing there so long? A Yes, sir.

Q Were they talking to each other? A No, sir.

Q How far from each other did they stand? A There was a pole dividing them; each had his back to the pole; I think there was a pole there.

Q Were they standing by the pole? A Yes, sir.

Q How many times did you look out at these men? A Three times; I cannot just tell you the exact number.

Q Now, how high is the third story of that building; would you compare it with the height of this room; how high above the ground is your window? A Just about the height of this room, maybe a little, but not much.

Q Maybe a little higher, but not much? A Yes, sir.

Q I show you this picture, Exhibit S. 10; take a good look at it, will you? A Yes, sir.

Q Now, you were at what window here? A This one.

Q On the second or third floor? A Right here.

Q The third floor? A Yes, sir.



*Philip Henry, direct.*

Q You were at, you think, that window? A Yes, sir.

Q Indicating the second one from the end of the building with No. 81 under it? A Yes, sir.

Q Now, how much of the top floor does your plant cover, what part does the third floor, or is it the whole thing? From there to there (indicating)? A Yes, sir.

Q The whole business? A Yes, sir.

Q From 81 to 85 on the entire top floor? A Yes, sir.

Q Your recollection is that it was at this window? A That is the one I was at.

Q Do you remember any time that you were at any other windows there? A That is the only one I was at.

Q Now, from that window, looking across the street to the corner at the men, just how many feet is it? A I don't know just how many feet it is.

Mr. McGeehan: Can we agree that it is about sixty or seventy feet, prosecutor?

Mr. Bigelow: The Court has a ruler.

The Court: Where are the poles, Mr. McGeehan?

Mr. McGeehan: The poles are right here. (They are shown on the map.)

Witness: A telegraph pole.

Mr. Bigelow: Something less than seventy feet.

Mr. McGeehan: Yes, it is around seventy feet.

Q Now, how far, how does it compare, the distance that you looked across the street, with the distance to the officer at the extreme rear end

of the room there, near the door? A Just about the same distance, I think.

Q So that your view was somewhat as if you were at a window up at the top floor and looking down at a man that distance away? A Yes, something like that.

The Court: Do I understand this witness to say that he was on the third floor?

Mr. McGeehan: On the third floor, yes, sir.

Q Now, how many times did you look at those men, Mr. Henry? A I cannot tell you the exact number of times, anything from two to four.

Q Two to four times? A Yes, sir.

Q And over what period of time did you see them standing there? A From twenty minutes after eight in the morning until close to half-past ten.

Q You saw them there from twenty minutes to eight to close to half-past ten? A Yes, sir.

Mr. Fisch: Twenty minutes after eight?

Witness: Yes, sir.

Q Now, you have seen the defendants in this case? A Yes.

Q And from the appearance of the men as you saw them on that day, are any of these defendants the men that you seen on the corner? A I don't believe so.

Q Where were you when the shooting started? A I was not at the window when the shooting started.

Q You were not? A No.



Q But did you hear shooting? A Yes, I heard shooting.

Q Did you run to the window? A Yes.

Q What did you see when you ran to the window? A I was at the window when the shooting started.

Q Oh, you were? A Yes, I was away from the window when I heard hollering something about get the police or something like that, and I went to the window, and there was a car coming up Mt. Pleasant avenue and two men were running behind it.

Q And then you heard the shooting? A Yes, sir.

Q Then you heard more shooting? A No.

Q Well, the first shot you heard was after the car got away? A No, it was not, before it got to the Reid ice cream plant. Let me explain?

Q All right, please tell us what you saw. A I heard hollering and went over to the window and saw a car going up Mt. Pleasant avenue towards where the Reid plant is, and two men were running behind it, and then I heard a shot, and saw a man, I think he had a gray suit on, fall between the two cars, and then I left and came right down, and the car was going right up Mt. Pleasant avenue.

Q Saw a car going up Mt. Pleasant avenue? A Yes, going away from the Reid plant.

Q By the way, you have been before line-ups in police headquarters? A One.

Q And you have been subpoenaed here by the State as a witness? A Yes, sir.

Q And not called to testify for the State? A No, sir.

*Philip Henry, cross.*

*Cross examination* by Mr. Fisch.

Q Now, you say that your window where you were standing is about the same distance from these men that you talk about as where you are sitting to the end of the room where the officer stands? A Yes, in my estimation I think so.

Q Well, do you think it was a shorter distance than that? A No, I don't think it was shorter.

Q Do you think it was any longer? A No, I don't think it was; I think it was about that.

Mr. Fisch: It is stipulated that the distance from the witness stand, the center of the witness stand, to the door at the end of the room is 45 feet 8 inches.

Mr. McGeehan: Yes.

Q Now, these men that you saw on the corner, I suppose you noticed the clothes they wore? A Yes, I saw the clothes they had on them.

Q And they both had double-breasted suits on? A I would not say about double-breasted. I will tell the color.

Q What color was it? A Blue.

Q You did not get any particular look at their faces? A Well, I looked at their faces when I was looking at them.

Q Well, they had hats on? A I know they had hats on.

Q And you were up on the third floor looking down? A Yes.

Q And your attention, I suppose, was particularly attracted to their clothes, wasn't it? A I don't know.



*Philip Henry, cross.*

Q Eh? A I couldn't say that.

Q You wouldn't say that? A No.

Q But you did not get a good enough look at them, as far as their faces were concerned, to tell whether they were light complexioned or dark complexioned? A Well, I thought the tall man was of light complexion.

Q Well, you thought. Did you get a good enough look at either of them to tell? A Well, from the glance I had, I thought that.

Q You just got a glance of them? A Yes.

Q What was the complexion of the other man? A I could not very well say, the smaller man.

Q What is that? A I could not tell about the smaller man.

Q Well, they were both the same distance from you? A Yes.

Q And yet you could not tell the complexion of one and you could tell the complexion of the other, is that right? A No, I don't mean that exactly, but the taller man I thought his face was a little red and his face seemed to be flushed, color in it.

Q You would not say from that, would you, that he was of light complexion? A Well, he looked like that the particular moment I was looking at him.

Q You did not get any glance at the hair of either of these men? A No.

Q You do not know whether they had light hair or dark hair? A No.

Q Either one of them? A No.

Q And at the time of this hold-up, you say that your attention was attracted by screaming? A No, not screaming, hollering where I worked, "Get the 'phone or get the police," or something like that.

*Philip Henry, cross.*

Q That was the first your attention was attracted at the time of the hold-up when somebody in your place hollered, "Get the police" or "Get the 'phone," and then you looked up? A When the hold-up was occurring.

Q Yes. A I got there in time to see the men run behind the automobile up Mt. Pleasant avenue toward the Reid plant.

Q What is that? A When I got to the window, there was an automobile going up Mt. Pleasant avenue toward the Reid plant with two men behind it.

Q What type of automobile? A I could not say.

Q Open or closed? A I could not say.

Q What color? A I only saw the back of it, just the top part.

Q And that was when you say you saw two men running behind it? A Yes.

Q And you had gotten to the window after you heard somebody in your place say, "Get the police, get a 'phone." A Yes.

Q Is that right? A Yes.

Q And that was the first that you got to the window at the time of the occurrence of the hold-up? A Yes, that is right.

Q So that after somebody in your place had yelled, "Get the police, get the 'phone," you ran to the window? A Yes, that is right.

Q And then you say you saw this car going up Mt. Pleasant avenue? A Yes.

Q And you saw two men running behind it? A Yes.

Q And not until then? A Not until then.

Q And that was after somebody had yelled, "Get the police, get the 'phone?" A Yes.

Q Now, the police have interviewed you? A Yes.



*Philip Henry, cross.*

Q And they have taken a statement from you? A Yes.

Q Haven't they? A Yes.

Q And you have spoken to Lieutenant Linarducci and Detective Giuliano here, haven't you? A Yes.

Q And they have asked you, have they not, whether you would be able to pick out the men you saw? A Yes.

Q And you told them that you would not be able to pick them out? A I said I didn't think so.

Q You said you didn't think you would be able to pick them out? A Yes.

Q That is true? A Yes. I always maintained that.

Q And the reason you maintained that was because you did not get a very good look, you did not get a good enough look at those men standing on the corner to pick them out again? A It might be so.

Q Well, isn't it so? A They told me as soon as I saw those men again the picture would flash across my memory, but I maintained I couldn't pick them out.

Q And you still maintain that, don't you? A Yes.

Q That you would not be able to pick them out if you saw them again? A I don't think I would.

Q So you do not know if the defendants in this case are the men or are not the men? A They don't look like them to me; that is as far as I can go.

Q That is as far as you can go? A Yes.

Q But you would not say they are not? A I have no proof.

*Philip Henry, cross.*

Q I didn't ask you that. A Either way.
Q You have not any proof either way? A No.
Q You would not say that they are not?

Mr. McGeehan: The witness has answered that a half a dozen times that they don't look like the men to him.

A In my estimation they do not.
Q You do not say they are not.

Mr. McGeehan: I object to that.

The Court: He has answered that question.

Q And you would not say they were? A I would not say they were.
Q You won't say that they were? A I won't say that they were?
Q You won't say either way? A No, I won't say either way.

The Court: Do I understand that you were attracted by shouts before this automobile had reached the Reid plant at all?

Witness: Yes, it was half way between the Reid plant and the corner of Mt. Pleasant avenue.

The Court: Did you hear any shots?

Witness: Not at that time.

The Court: Well, was the shouting for the police before the shots were fired?

Witness: Yes, sir.

The Court: Did you notice the two men whom you seen there from twenty minutes after eight, had you seen them at the time the



*Philip Henry, cross.*

automobile was moving towards the Reid plant?

Witness: They were running behind it.

The Court: And how far away from the Reid plant was this automobile these two men were running behind when you heard shouts for police?

Witness: I can only tell when I got to the window.

The Court: Well, now, you know where the Reid plant is.

Witness: Yes, sir.

The Court: Now, with relation to the Reid plant, how far away from the Reid plant was this automobile when you heard shouts for the police?

Witness: It was at the garage just before you go to the Reid plant.

The Court: And the garage is on the left-hand side going up?

Witness: No, on the right-hand side going up.

The Court: Can you point on the map where the automobile was when you heard the shouts for the police?

Witness: This is the garage here somewhere (indicating).

The Court: When did you see the man fall?

Witness: When a shot went off.

The Court: Where was the man that fell when you saw the automobile at the garage?

Witness: The two cars were close together and the man fell, he fell between the two front wheels.

The Court: Did you see who shot the man?

Witness: No, I did not see who did the shooting.

The Court: Was the car moving slowly or going fast.

Witness: It was moving slowly, going up.

The Court: And did you notice where that car had started from?

Witness: No, I cannot say.

The Court: While you were looking out this window off and on from twenty minutes after eight, did you notice whether or not an automobile was in front of your factory?

Witness: No, you cannot see down that way from the third floor, you have to put your head out to see an automobile, I think, outside.

The Court: Well, how far looking in the manner that you look out of your window how far into Clay street could you look?

Witness: I guess you could see the curb without putting your head through the window.

The Court: Well, if an automobile were against the curb could you see the automobile?

Witness: I guess you could.

The Court: Did you see it?

Witness: I did not take notice of any automobiles at the curb.

Juror No. 6: Will the witness please state, the first or second time he looked out of that window what position those two men held with reference to the pole at the corner?



Witness: Their backs were towards it.

Juror No. 6: Did these men have their backs towards you as you looked down at them?

Witness: No, one was facing Broad street and one was facing towards the bridge.

The Court: Neither facing you?

Witness: No, not at that time.

*Re-direct examination* by Mr. McGeehan.

Q So that you would be looking at the side of the men and down upon them? A Yes, sir.

*Re-cross examination* by Mr. Fisch.

Q And as soon as there was this commotion, of get the police or get the telephone, you went to the window and a lot of people rushed around there at that time, didn't they? A Rushed around Reids?

Q Yes. A I could not see that.

Q You don't know whether that is so or not? A No, sir.

*Re-direct examination* by Mr. McGeehan.

Q Did you say someone in your office, was it, that said something about the police? A Yes, sir.

Q Not a shout from outside? A No, sir.

DOROTHY MILLER, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q How old are you? A Twenty-three.

Q And what is your mother's name? A Marion Miller.

Q Marion Miller? A Yes.

Q She has married a second time? A Yes.

Q What was her name when you were born, what was your father's name? A My father's name?

Q Yes. A Petro Orteda.

Q Do you know where your father and mother were born? A Saragosas, Spain.

Q And where were you born? A Philadelphia.

Q You are acquainted with the defendant Capozzi, are you not? A Yes.

Q And during the month of July, and at other times, you and he lived together? A Yes.

Q In the early part of July did you register with him at a hotel? A Yes.

Q What hotel? A St. Francis.

Q And under what name did you stay there? A Mr. and Mrs. John Roma.

Q And some time after your going to the hotel, did you leave for some town out of the City of Newark? A I did.

Q Where did you go to? A Wilmington, Delaware.

Q Who did you visit there? A A lady friend of mine.

Q What is her name? A Mrs. Spitzner.

Q How long were you down there? A A week to the day.



Q And what day did you come home from Wilmington? A I came home from Wilmington, Delaware, on July 19th.

Q Do you know what time your train arrived at the station here? A I know it was sometime around 4 o'clock.

Q Now, before you left Wilmington, Delaware, on the 19th, did you make a 'phone call to Roma? A I did.

Q Where did you call from? A From a 'phone booth.

Q And where did you call him at, I mean, where was this call directed to, where did you get him? A I called him at the Hotel St. Francis.

Q Did you speak to him? A I did.

Q Do you know about what time that was, what part of the day? A That was before noon.

Q Then after arriving, or when you arrived in Newark, did anyone meet you? A Yes.

Q I beg your pardon? A Yes.

Q Who met you? A Why, Mr. Capozzi and Joe Juliano.

Q And where did they meet you? A At the Pennsylvania station.

Q Now, where did you go with them as far as you can remember? A Well, it was—I can remember it was a very, very warm day, scorching hot—

Q Well, where did you go? A We went to the Hotel St. Francis.

Q The three of you? A The three of us.

Q And where did you go from there? A From there I went to 93 Milford avenue.

Q Now, had you before you left taken this place on Milford avenue, this apartment? A I had put a deposit on it.

Q And you later lived there as Mr. and Mrs. Roma? A Yes.

Q When did you move to the apartment at 95 Milford avenue? A I moved into the apartment July 20th.

Q Now, where was the furniture that you put in the apartment, where did you get that from? A The furniture I had had about two years. Previous to living in Newark, I lived in New York.

Q By the way, you are married, aren't you? A Yes.

Q And not divorced? A No, sir.

Q And not married to Capozzi? A No.

Q You had this furniture and where did you get it from to move it into the apartment? A It was moved from the Roseville Storage Company in Roseville.

Q And what day was it moved? A It was moved on July 20th.

Q And did you move into the apartment on that day? A July 20th.

Q Now, where did you go after going to the apartment on Milford avenue, where did the three of you go after that? A We drove Mr. Juliano to his home.

Q And by the way, you know the defendant, Mr. Juliano, do you not? A I do.

Q And do you know the defendant Chris Barone? A I do.

Q Did you ever meet or see the defendant young Joe Juliano? A This is the first time.

Q Previous to your coming to court? A Yes.

Q And did you ever see the witness Boudreau, who sits here, whom I am indicating? A Never in my life.



Q And you left Joe Juliano at his home—did you see him again later in the day? A I did, in the evening.

Q And did you go to any place—by the way, what kind of car did Capozzi have when he met you at the train? A He had a Packard straight eight, a gray open car, brand new.

Q And did you go anywhere in the Packard car that night on the 19th? A I did.

Q Where did you go? A We went to Long Branch.

Q And who else went on the ride? A Joe Juliano, Chris Barone, Ruff and myself.

Q Where did you go at Long Branch? A We went to the Silver Slipper.

Q And when did you come back? A We came back the next day, the day I moved, July 20th.

Q And you moved after you came back? A Yes.

*Cross examination* by Mr. Fisch.

Q What is your right name? A My birth name is Dolores Ortega.

Q What is your right name, your marriage name? A My marriage name is Mrs. James Dick.

Q And how long is it since you have not been living with your husband? A Three years.

Mr. McGeehan: I object.

The Court: I will allow it.

Q Where was the last place that you lived with your husband?

Mr. McGeehan: I object to that as not relevant.

The Court: I will allow it.

A What is it?

Q Where was the last place that you lived with your husband? A Easton, Pennsylvania.

Q What is the name of this lady friend that you say you went to visit? A Mrs. Spitzner.

Q What is her first name? A Ruth.

Q And is she living with her husband? A Yes, sir.

Q What is her husband's name? A Mr. Earl Spitzner.

Q What is her address? A 140 Brandywine avenue, Wilmington, Delaware.

Q Is that an apartment house or a one-family house or a two-family house, or what? A It is an apartment house of three families, I believe.

Q And what floor do they live on? A Top floor, the third.

Q How many members are there in her family? A Just two, herself and husband.

Q How many rooms have they? A They have four rooms.

Q Kitchen? A Kitchen.

Q And a dining room? A Dining room.

Q And living room? A And a living room.

Q And a bedroom? A Yes, sir.

Q And when did you leave for Wilmington? A I left the Monday previous to I came back; I left on a Monday and came back on a Monday.

Q What time did you leave on Monday? A It was in the afternoon, about 3:00 o'clock, sometime around that time.

Q Where did you leave from? A I left from the Pennsylvania station.



Q Market street? A Yes, sir.

Q Where did you buy your ticket? A At the Market street station.

Q Did you buy the ticket yourself? A Yes, sir.

Q Or did Capozzi buy it for you? A I bought my own ticket.

Q When did you first meet Capozzi? A I first met him about—I guess it is about three years ago.

Q You are sure about that? A I am sure, now, yes, sir.

Q When did you first begin to live with him? A Well, I don't just exactly know the date or the month, but I think it is about six months ago.

Q Six months from the time he was arrested, do you mean? A Well, I don't know about his being arrested, but I know it is about six months ago he and I started to live together.

Q Well, was it before or after the 1st of January this year? A I think it was after.

Q After January 1st of this year? A Yes, sir.

Q Well, you began to live with him as man and wife then? A Yes, sir.

Q You were known as Mrs. Roma and he was known as Mr. Roma? A Yes, sir.

Q Where was this telephone booth that you phoned from? A The drug store.

Q Whereabouts? A Well, it was in the center of the city.

Q Well, where? A I believe it was on Market street, in Wilmington, Delaware.

Q Market street and what? A Well, I just don't know what street.

Q Well, near what other street? A I don't know; I am not very well acquainted with the streets in Wilmington.

Q Well, was it a corner store? A No; it was in the middle of the block.

Q A one-story building was it? A Well, I suppose—I believe there were offices over it, if I can remember correctly.

Q Do you know the name of the drug store? A I do not.

Q Where was the phone booth in the store? A The phone booth was right near the entrance to the drug store.

Q On the right or left-hand side? A On the right-hand side going in.

Q On the right-hand side going in? A Yes, sir.

Q Near the entrance? A Yes, sir.

Q Did you speak to anybody in the store? A I did not.

Q What is that? A No, sir.

Q Was this a slot machine telephone? A Yes, sir.

Q And you went into the booth? A Yes, sir.

Q And you called what number? A I called the St. Francis; I just cannot remember the number now.

Q Well, did you look up the number? A I did not.

Q Well, how did you get the number? A I had the number on a piece of paper.

Q You had the number on a piece of paper? A I believe it was a letterhead of the St. Francis Hotel.

Q And you gave the operator the number, did you? A Yes, sir.

Q Then, did the operator connect you? A Yes, sir.

Q Right away? A Well, no. She told me to hang up and that she would call me.



Q And did she call you? A She called me.

Q And where were you while you were waiting for her to call you? A I was in the drug store.

Q How long were you there? A Well, I imagine it was about ten minutes before she called me.

Q Did you talk to anybody in the drug store? A No.

Q Who was with you when you went in to call? A I was alone.

Q Did you see the clerk or the proprietor of the drug store? A Well, there was someone there, but I didn't just pay any attention.

Q Did other people come in the store when you were there? A Yes.

Q And what time of the day was it? A Well, it was sometime a little after half-past eleven, I imagine.

Q A little after half-past eleven that you first went into the drug store? A Yes.

Q And what time was it when you got your number, or the operator called you? A About ten minutes later.

Q So that would make it what time when you got your connection? A Well, I could not be definite about the time, because I didn't commit it to memory.

Q Well, was it nearer 12:00 o'clock or nearer to half-past eleven? A Well, it was nearer to half-past eleven.

Q Well, what time was it, a quarter to twelve? A I don't know.

Q Twenty minutes to twelve? A I don't know.

Q Well, it was a little after half-past eleven that you went into the drug store, wasn't it? A It might have been a few minutes after.

Q Five minutes after? A Probably three minutes after.

Q And you waited about ten minutes before the operator called you? A Yes.

Q And then as soon as the operator called you, you went into the telephone booth, didn't you? A I did.

Q Did anybody come in to use the telephone between the time you made the call and the time that she called you? A No.

Q Nobody came in to use it? A No.

Q And the telephone did not ring in between that time? A No.

Q And this store is in a busy section of Wilmington? A Yes.

Q And you cannot give us any idea what number Market street it was in Wilmington? A No, I cannot.

Q Well, how near to Market street is 140 Brandywine avenue? A Well, it is about six blocks, I should imagine.

Q And did you walk from 140 Brandywine avenue to Market street? A I did.

Q And then did you walk from the corner of Brandywine avenue and Market street to the drug store? A I walked from Brandywine avenue to Market street.

Q Now, when you got to Market street, did you walk to the drug store? A Well, the drug store is on Market street.

Q Yes, you walked along Brandywine avenue until you got to Market street, didn't you? A Yes.

Q Now, when you got to Market street, didn't you walk to the drug store? A Yes.

Q You walked along Market street? A Yes.

Q And did you turn right or left when you got to Market street? A I turned right.



Q You turned right? A Yes.

Q And how many blocks did you walk; how far did you walk until you came to this drug store? A Well, I just can't remember how far I walked. I was not in any particular hurry. I walked leisurely.

Q You walked leisurely? A Yes.

Q How many blocks did you walk? A I don't know.

Q Well, did you walk twenty blocks? A No, I didn't walked that far.

Q Did you walk five blocks? A Probably.

Q Well, did you walk more than five? A Well, I cannot say. I did not count how many blocks I walked.

Q Well, how many blocks did you cover before you came to the drug store after you arrived on Market street? A I don't know.

Q You don't know? A No.

Q Now, what time did you leave Spitzner's house that morning? A I left their house after 11:00 o'clock.

Q You left the house about 11:00? A Yes.

Q And you walked leisurely? A Yes.

Q And you were in no hurry? A No.

Q Did you have any bag or grip with you? A No.

Q And you left the house alone? A Pardon me; I had a package with me.

Q What is that? A I had a package with me.

Q Was anybody with you? A No.

Q And you had intended to leave that day? A I did.

Q And when had you made up your mind that you were going to leave that day? A When did I make up my mind?

Q Yes. A Why, when I went there I did not intend to stay any more than a week, because I knew that I was to need my furniture and go to my new apartment.

Q And when did you pick out the train that you were going to take? A When did I pick out the train?

Q Yes. A Why, before I left the house.

Q Before you left Spitzner's house? A Yes, sir.

Q And what train were you going to take? A I was going to take the 1:15.

Q The 1:15 out of Wilmington? A Yes, sir.

Q And Spitzner's have a telephone, have they? A No, sir.

Q They have no telephone? A No, sir.

Q And you were going out that morning for the particular purpose of making a telephone call? A Well, not particularly to make a telephone call. I went out and I intended to look around a bit and make the telephone call and also make my train for Newark.

Q Then, when you left the house at that time to walk out, was that the last that you were at Spitzner's house before you got on the train? A Yes, sir.

Q You did not go back again? A No, sir.

Q You did not have any baggage with you? A No, sir.

Q And nobody went to the station with you? A No, sir.

Q This lady friend of yours, Mrs. Spitzner, did not go to the station with you? A No, sir.

Q Were you looking for a place where you could call up on the telephone? A Well, walking along the street I thought to myself, well, the first telephone booth I come to I will call Ruff up.



Q When did you think that to yourself? A As I was walking along.

Q Well, whereabouts—while you were walking along Bradywine avene? A No, sir.

Q Before you got to Market street? A No; when I got to Market street.

Q That is, just when you got to the corner there on Market street that is when you thought you would 'phone? A Yes, sir.

Q And that is when you turned to the left, was it? A Yes, sir.

Q Then you began to look for a place to call up from, didn't you? A Yes, sir.

Q Was this the first place that you saw? A The first place I saw after bringing into my mind, "Well, I will call up Ruff," the first place that I saw had a little sign, "The Bell Telephone," and then I knew that there was a public booth there.

Q This was the first place that you saw after you turned left to Market street, the first place that you saw this little sign? A It was the first place that I saw after I said to myself "I will call up Ruff." I did not think of it before.

Q That was when you had just gotten to Market street? A Yes, sir.

Q And was that the first drug store that you had come to that you had seen or that you had seen from the time you got to Market street there from Brandywine avenue? A Well, that I can't say.

Q Well, you know that there are telephone booths in drug stores, don't you? A Yes, I do.

Q And you had made up your mind that you had made a telephone call and you were looking for a drug store or some place that had a telephone booth in it? A I was, and that was the

first place I made up my mind to call him; that was the first place I saw that I would be able to go in and make the call.

Q Well, was that the first drug store that you saw? A Well, that I don't know.

Q Well, did you see any drug store before that where you did not know whether you would be able to make the call or not? A Well, I don't know. I probably saw a drug store or a cigar store where you could have made the call, but paid no attention to it, because the thought was not in my mind of calling him up at that time.

Q Well, the thought was in your mind as soon as you reached the corner of Market street and Branrywine avenue, wasn't it? A Not exactly; after I got on the busy thoroughfare I thought, well, this would be a very convenient place to call him up, because on Brandywine avenue it is all residences; it is a residential section.

Q Well, didn't you just tell us a few moments ago, Mrs. Dick, that you made up your mind to telephone to Ruff, Capozzi or Roma, when you reached the corner of Market street and Brandywine avenue? A I believe I said about that time.

Q You believe you said about that time? A I believe so.

Q Well, wasn't that the time? A Wasn't that what time?

Q When you made up your mind you were going to call him up? A Well, not exactly the minute I reached Market street.

Q Well, how far had you walked on Market street, then, before you made up your mind to call him up? A I don't know.



Q You do not know whether it was a block or two blocks? A No, sir.

Q Well, are there any theatres near this place where you called up? A I can't remember.

Q Are there any public buildings near this place where you called up? A There is a department store.

Q What department store is near where you called up from? A There is a department store by the name of Smith-Sollinger.

Q And that is on Market street? A Yes.

Q And how far from this drug store where you called up is Smith-Sollinger? A I don't know.

Q Well, is it a block away? A I could not say.

Q Well, I thought you said that this department store was near the place where you called up? A Yes, it is near.

Q Well, how near? A I do not know how near.

Q Well, how far? A I don't know.

Q Well, is it a mile or a block? A Well, I could not say it was a mile, but it may be more than a block. I do not know.

Q Well, if it is more than a block, how many blocks? A I don't know how many blocks.

Q Well, is it a half a dozen blocks? A No.

Q Is it between Brandywine avenue and the drug store? A Yes.

Q So that you passed Smith-Sollinger's department store before you got to the drug store? A Yes.

Q Is that right? A That is right.

Q And how far past Smith-Sollinger's did you go before you got to the drug store? A I don't know.

Q Well, how far is Smith-Sollinger's from Brandywine avene? A Well, I don't know.

Q You have not the slightest idea? A Why, Smith and Sollinger's is on a different street than Brandywine avenue.

Q And Smith and Sollinger's is on Market street? A It is on Market street, yes.

Q Well, how far did you walk from Brandywine avenue before you came to Smith and Sollinger's? A Well, Brandywine avenue runs in a different direction than Market street.

Q Well, how far did you walk along Market street before you came to Smith and Sollinger's? A I don't know.

Q Eh? A I don't know.

Q And you cannot tell us either how far you walked past Smith and Sollinger's before you got to the drug store? A No.

Q How long did it take you to walk from the time you passed Smith and Sollinger's till you got to the drug store? A I cannot say.

Q Is that drug store on the same side of Market street as the department store? A I believe it is.

Q Now, after you left the drug store—oh, by the way, how much did you pay for the 'phone call? A Seventy-five cents.

Q And how long did you talk? A I don't know just how long I talked, but I know I hung up before my time was up.

Q You were not asked to put in additional money in the box? A No.

Q Where did you go after you left the drug store? A I left the drug store and went into a restaurant and had my lunch.

Q And what restaurant? A It is a little place. I know the name, if I have time to think, I believe I can remember it.



Q Is that on Market street? A Yes.

Q And is it on the same side of the street as the drug store? A Yes.

Q How far is it from the drug store? A Maybe about a block.

Q A block from the drug store? A Perhaps.

Q Perhaps? A Yes.

Q And is it right on the main floor? A Yes.

Q And it is a sea food place? A Yes.

Q And you cannot give us the name of it? A I probably could if I had time to think.

Q Well, is it the name of some particular name, or is it a particular name, is it a fancy name? A I think it is a name.

Q Fancy name? A Fancy name, yes.

Q Well, is sea food any part of the name? A No.

Q Do they serve sea food as a specialty; is that it? A Yes.

Q You had a sea food lunch, didn't you? A No, I didn't.

Q You didn't have a sea food lunch in this sea food place? A No.

Q And then the drug store is between this department store that you have told us about and the sea food place? A Yes.

Q And it is a block away from the sea food place? A Well, I cannot be exact. I said about a block.

Q Is this restaurant or sea food place the first place you came to after you left the drug store? A No, sir.

Q Is this restaurant or sea food place the first place that you came to after you left the drug store? A The first place. What do you mean the first place?

Q The first eating place? A I believe it is.

Q Well, are you sure about that? A Well, I cannot be too positive; I am not so very well acquainted.

Q When you came out of the drug store you were looking for a place to have your lunch, weren't you? A Not particularly.

Q When did you make up your mind to have your lunch? A When I came to the place.

Q Not when you left the drug store? A No, sir.

Q Well, it was pretty nearly twelve o'clock, wasn't it, when you left the drug store? A Yes, sir.

Q You had nothing to do but to go to lunch and go to the train? A That's all.

Q And you did not start to look for a place to eat as soon as you came out of the drug store? A No, sir.

Q And how far is this place where you had your lunch from the station? A It is about eight or nine blocks.

Q Eight or nine blocks from the station? A Yes, sir.

Q How long did it take you to eat your lunch? A Oh, I should judge about a half an hour; twenty minutes or a half an hour.

Q Then did you walk to the station? A I did.

Q What time did you get to the station? A I got to the station about five minutes before my train pulled in, because I remember I was buying a paper and had to rush upstairs to get the train.

Q What time was that? A My train left at 1:05.

Q What time did you get to the station? A I don't know just what time I got there; I know



it was a very few minutes before my train pulled in.

Q And this trip to Wilmington—this was the first trip that you had made to Wilmington in how long? A The first trip I had made in about six or seven months.

Q And you, of course, remember the date that you went there? A The date I went there when?

Q In July? A In July—well, I can easy figure it out, I don't just know the date just now, I never committed it to memory, but it was the Monday previous to the Monday that I came home.

Q And when did you arrange with the Roseville Storage Company to put your furniture down on Milford avenue? A Milford avenue? The morning that I moved into it.

Q Well, hadn't you made the arrangements with the storage company before that day? A No, sir.

Q So you notified the storage company on the 20th? A I did.

Q That you wanted your furniture on the 20th? A I did.

Q And you got it the same day? A I did.

Q And whom did you speak to at the Roseville Storage Company? A I did not go there personally, I called there, I called them on the 'phone.

Q You called them on the 'phone? A Yes.

Q What time of the day did you call them on the 'phone? A I called them in the morning.

Q What time? A A little before twelve, I believe it was.

Q From where? A From Long Branch.

Q You called them from Long Branch? A Yes, sir.

Q What place in Long Branch did you make that call? A I called them from the Silver Slipper.

Q And have they got a telephone booth there? A At the Silver Slipper?

Q Yes. A They have.

Q And did you make the call from the telephone booth? A Yes, sir.

Q And how much did it cost you? A It cost me twenty or twenty-five cents.

Q When had you gotten to the Silver Slipper? A What time, do you mean?

Q Yes. A Well, we left Newark around 12 o'clock.

Q At night? A Yes.

Q What night? A The night of July 19th, the night of the day I arrived in Newark.

Q And you stayed there all night? A Yes, sir.

Q You stayed at the Silver Slipper all night? A Yes, sir.

Q Until what time? A Until the next day. My furniture was supposed—

Q Now, please answer my question. Until what time did you stay at the Silver Slipper? A We stayed at the Silver Slipper, I should imagine, until about 1 o'clock.

Q One o'clock in the afternoon? A Yes.

Q It is a cabaret, isn't it? A It is a cabaret and hotel.

Q Hotel, too? A Yes.

Q And did you occupy a room there? A Yes.

Q What room did you occupy? A Well, I do not know the number of the room.



Q What floor was it on? A It was on the second floor.

Q What? A The second floor.

Q Did you register? A No.

Q Did Capozzi register? A I don't know.

Q Did he stay with you there? A Yes.

Q He stayed with you? A Yes.

Q And what time did you leave there? A I left there the next day.

Q What time? A At about 1 o'clock.

Q At about 1 o'clock in the afternoon? A Yes.

Q Was Barone with you? A Yes.

Q And did he stay there over night? A Yes.

Q And did he leave with you the next day? A Yes.

Q And how about Big Joe? A Joe Juliano was with us, too.

Q And did he stay there over night? A Yes.

Q And did he leave with you the next day? A Yes.

Q And what floor did they stay on, do you know? A They stayed on the same floor.

Q On the same floor? A Yes.

Q Did you have adjoining rooms? A No.

Q How far away from your room was Big Joe's room? A It was across the hall.

Q And where was Barone's room? A Well, Barone slept with Joe, I believe; the two of them slept together.

Q And you got down to the cabaret, you say, at 1 o'clock in the morning? A No.

Q What time did you get down? A Well, we left Newark around, I should judge—I cannot be definite, because I do not know just what time it was, but I imagine that we arrived along about 3 o'clock in the morning.

*Dorothy Miller, cross.*

Q You arrived in Long Branch 3 o'clock in the morning? A About that time.

Q And the cabaret was in full swing, was it? A Yes.

Q A lot of people there? A Quite a few.

Q Well, a lot? A Yes, a lot of people.

Q And did you see anybody there from Newark? A I did.

Q Who did you see? A I saw about eight or nine people.

Q Well, who? A I saw two detectives from Newark.

Q Who? A Mr. Reibold.

Q Who else? A Mr. Fallon.

Q Who else? A A man by the name of DePhillips.

Q DePhillips? A Yes.

Q What is his first name? A I don't know his first name.

Q Do you see him in court now? A I do. I saw him before.

Mr. Fisch: DePhillips. (A man stands.)

Q Is that the man? A Yes.

Q You saw him there? A Yes.

Q Who else? A I saw a man that has the Branford cafe there, Johnny Andrews.

Q Anybody else? A I cannot think of anyone else.

Q And you saw all of those people whose names you have mentioned at three o'clock in the morning there? A I did.

Q And when you got down there, did you dine? A I did.

Q And how long did you dance and dine? Did you dine there, too? A Yes.



*Dorothy Miller, cross.*

Q And how long did you dance and dine? A Well, it was about breaking day.

Q Well, what time was it? A I don't know just what time it was.

Q Well, was it six o'clock? A Well, I don't think it was that late.

Q Five o'clock? A I guess it was pretty near five.

Q And then where did you go? A We went to bed.

Q Right in the same building? A Yes.

Q What time did you get up? A I got up about twelve o'clock.

Q And that was when you woke up, twelve o'clock? A Around that time. I do not know just definitely.

Q And you got dressed? A Well, I would have liked to have slept longer, but I could not because I wanted to get my furniture moved in that day.

Q And you got dressed, did you? A Yes.

Q And how long after that did you make the telephone call? A Well, I know I made the telephone call as soon as I dressed myself.

Q As soon as you dressed yourself. How long did that take? A It does not take me very long to dress.

Q Eh? A It does not take me very long to dress.

Q How long did it take you then? A About fifteen minutes.

Q And you were anxious to get the furniture, were you? A Yes.

Q When did you make up your mind that you were going to get the furniture on the 20th? A Well, I paid a deposit on my apartment for the 15th with the idea that I was going to move in

the 15th, and there was quite a little work to be done on the apartment, such as the floors all had to be shellacked—

Q When did you make up your mind?

Mr. McGeehan: She is telling you, I think.

Q All right; I won't interrupt you; go ahead. A The janitor said being that the apartment is in such a condition it would take him quite a while for him to get it ready for me to move in; he had to call the painters there and thought it would be advisable for me to move in later, if I could, and so, then, I decided to make my trip to Wilmington and decided when I arrived home I would move in.

Q Now, when did the janitor tell you that it would be better to move in later? A When I paid my the deposit.

Q When did you pay the deposit? A I believe I paid the deposit on the 15th.

Q The 15th of July; is that right? A Well, I won't say the 15th, because I was figuring on moving in the 15th.

Q Well, now, you said a minute ago that you paid it on the 15th; now, which is it, did you or didn't you? A I probably made a mistake. I did not.

Q Now, when did you pay the deposit? A I intended to move into the apartment on the 15th; that would make me just one-half month's rent.

Q Well, when did you pay the deposit? A I paid the deposit before the 15th.

Q Well, how long before? A I don't remember.

Q Was it the day before or two days before? A No, it was not.



Q What day of the week was it? A I don't remember.

Q What day of the week did the 15th of July fall on? A The 15th, I believe, fell on a Friday.

Q Friday? A I cannot be positive.

Q You were expecting to move in on the 15th; is that right? A Yes, sir.

Q When did you learn that you could not move in on the 15th? A After I paid my deposit to the janitor I went back there to see if my apartment was in condition for me to move in on the 15th.

Q When was that? A It was about two days previous to the 15th.

Q Two days previous to the 15th? A About that.

Q Well, was it two days previous or one day previous? A Well, I cannot be sure one way or the other.

Q Well, was it two days previous or three days previous? A I don't know for sure; I should imagine about two days.

Q What is that? A Probably about two days.

Q Probably about two days before the 15th; is that right? A Yes, sir.

Q And that was when you knew you could not move in on the 15th? A When?

Q Two days before the 15th?

Mr. McGeehan: Probably about two days before the 15th.

Q Probably two days before the 15th? A That is when he told me that the painters had not been there yet.

Q And do you know whether that was the beginning of the week or the end of the week or

the middle of the week when you went there and found out you could not move in on the 15th? A It was the end of the week that the janitor told me he could not get—I said, "Isn't there some way that you could arrange it for me?" And he said, "The painters will only work one-half day tomorrow."

Q He told you that? A Yes, he told me that.

Q He told you that about two days before the 15th? A Yes, about that.

Q Is that right? A About that; I am not sure.

Q And then you made up your mind that you were going to move in on the 20th; is that right? A Yes, sir.

Q Is that the time? A Well, I did not make up my mind about the 20th; I figured I will go to Wilmington for a week and then when I come back I will move in.

Q When did you make up your mind that you were going to move in on the 20th?

Mr. McGeehan: I think she has answered that practically.

The Court: I will allow her answer to remain.

Q (Question read.) A Well, I guess it was while I was in Wilmington.

Q While you were in Wilmington? A Yes.

Q How long after you got to Wilmington did you make up your mind that you were going to move in on the 20th? A I don't know.

Q Well, a day or two days? A I don't know.

Q Well, how long before you left? A I don't know.



Mr. McGeehan: This witness has answered that. She said she does not know, and I think the time will go on interminably if questions are to be repeated time and time again.

Q Will you tell us how long before you left you made up your mind? A I couldn't, no.

Q Well, what did you do when you made up your mind that you were going to move in on the 20th? A Why, I didn't do anything about it until I got back to Newark.

Q You knew the address of the Roseville Storage Company, didn't you? A Yes.

Q And you did not communicate with them from Wilmington, did you? A No.

Q Did you communicate with Ruff from Wilmington about moving in on the 20th? A No.

Q You did not communicate with anybody? A No.

Q Just made up your mind about it; is that is? A Yes.

Q And the first you let anybody know you were going to move in on the 20th was twelve o'clock on the 20th when you called up the Roseville Storage to have them move the furniture the same day? A Well, I wouldn't say that. When I came home from Wilmington I do not remember what time. I perhaps said this—but I said to Ruff, "I will try to get into the apartment tomorrow, because my deposit is paid, and the rent is going on and I am not getting the use of it, and there is no use of our paying a larger hotel bill than we were."

Q You said that to Ruff? A Yes.

Q You were trying to save his money for him at the hotel, were you? A Yes, I was.

Q What time of the day was it when you moved your furniture in? A It was four o'clock.

Q It was four o'clock in the afternoon? A Yes.

Q What time did you get back to Newark? A I got back to Newark about 3:30.

Q And where did you go when you came to Newark? A I went directly to the Milford avenue house.

Q You went directly there? A Yes.

Q And did Ruff go there with you? A Ruff let me off at the house.

Q And you stayed there alone? A I stayed there and waited for the furniture, yes.

Q What is that? A I stayed there and waited for the furniture to come.

Q Did they tell you over the telephone what time the furniture was going to be delivered? A They did.

Q They told you four o'clock? A They told me 3:30.

Q And you got there just at the dot of 3:30, did you? A Yes.

Q And you waited a half hour before it came? A Yes.

The Court: That was the day you came in from Wilmington?

Witness: No, that was the day I come back from Long Branch.

Q And you had not made any arrangements about that the day before? A About that?

Q About the furniture? A That day.

Q That was on the 20th that you had made the arrangements; is that right? A Yes.

Q And did you buy any furniture? A Did I buy any furniture?



Q At that time? A After I had moved into the 93 Milford avenue apartment I did.

Q Afterward? A Afterward.

Q What—had you bought any before you moved in? A No, sir.

Q Were you with Ruff when he bought any furniture before you moved in? A What is it?

Q Were you with Ruff when he bought any furniture before you moved in? A When he bought any furniture?

Q Yes. A He did not buy any furniture.

Q He did not buy any furniture at all? A It is my furniture.

Q It was your furniture and everything that was in the place at any time was yours? A Yes.

Q He did not buy anything? A No.

Q Were you in court when Ruff was on the stand? A I was.

Q During all of his testimony? A Yes.

Q Now, had you lived in Newark before you went to the St. Francis Hotel? A I had lived at the Hotel Riviera.

Q And who did you live there with? A Ruff.

Q How long had you lived at the Riviera with Ruff? A I don't know.

Q Well, a week or a month or a day? A It was more than a month.

Q Several months? A Yes, about two months.

Q And where did you live before that? A Before that?

Q Yes. A I lived on Baldwin street.

Q With whom? A Well, I lived there myself and Ruff used to come and see me there.

Q And he used to see you there? A Occasionally.

Q Did you have a furnished room house there? A Yes.

Q You ran a furnished room house, did you, at Baldwin street? A Yes.

Q What number? A I believe it was 22.

Q And you were there all winter, were you, all of last winter?

Mr. McGeehan: I object to this; I do not see any relevancy to it; I cannot see the relevancy; it is at a period apparently considerably before the event involved in this trial.

The Court: I will allow the question.

A What is that question?

Q You were there all of the last winter, were you? A Yes, sir.

Q And did you at one time work for the telephone company? A I did.

Q And how long were you with the telephone company?

Mr. McGeehan: I object to that.

The Court: I will allow it. It may be material.

A How long was I with the telephone company in Newark?

Q Anywhere? A I worked for two telephone companies.

Q You worked for the telephone company in Newark? A Yes, sir.

Q As an operator? A Yes, sir.

Q How long? A About three years.

Q And you worked for a telephone company somewhere else, did you? A Yes.

Q Whereabouts? A In New York.

Q For how long? A About a year; yes, sir, a long distance operator.



Q As a long distance operator? A Yes, sir; it was a different telephone company than the telephone company in Newark; it was the American Long Distance Telephone and Telegraph Company.

Q You mean the American Telephone & Telegraph Company of New York? A Yes, sir.

Q And here it is the New York Telephone Company that you worked for in Newark? A Yes, sir.

Q And so, you are familiar, are you, with the custom of the telephone company in making calls? A Well, no, I am not.

Q And you were with the telephone company for three years and don't know how calls were checked? A Well, just what do you mean by checked?

Q Calls checked back? A No, I do not; that is taken care of in the auditing department, and I don't know what goes on there.

Q You don't know anything about their system? A No.

Q And your husband, is he alive?

Mr. McGeehan: I object to that as not being relevant.

The Court: Overruled.

A I believe he is.

Q He was not killed in a train wreck, was he? A I heard rumors that he was.

Q When did you hear these rumors?

Mr. McGeehan: I object.

The Court: Sustained.

Q Well, did you tell the police that he was killed in a train wreck?

Mr. McGeehan: I object to that as not relevant.

The Court: Sustained.

Q How long did you keep that furnished room house, up until when? A Up until about February, I believe, February or March.

Q 1926? A Yes, sir.

Q You did not keep it until June, did you?

Mr. McGeehan: I object.

The Court: I will allow it; it may be material.

A No, sir.

Q Then, after you gave up the furnished room house where did you go to live? A New York.

Q New York? A Yes, sir.

Q And whereabouts in New York? A I was living at the Green Court Hotel.

Q Under what name? A Miller.

Q Dorothy Miller? A Yes, sir.

Q Did you register there under that name? A Yes, sir.

Q Living there alone? A No, sir.

Q Who were you living with?

Mr. McGeehan: I object to that as not being at all pertinent or relevant to the issue in this case.

The Court: Overruled.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.



Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A With a girl friend of mine, Bertha Evans.

Q Didn't you tell us on cross examination a little while ago that after you gave up the furnished room house that you went to live at the Hotel Riviera with Ruff? A Well, if I told you that I made a mistake; I don't remember.

Recess until Monday, November 29, 1926, at ten o'clock A. M.

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## TWELFTH DAY.

Monday, November 29, 1926.

Appearances as before stated.

Trial continued.

DOROTHY MILLER, recalled.

*Cross examination* (continued) by Mr. Fisch.

Q Have you been able to think of the name of that sea food restaurant you were in in Wilmington? A Yes.

Q What is the name? A Ambrose.

Q Now, you say that on the day that you got your furniture you had come up from the shore? A Yes.

Q And did you stay at the house then? A From then on?

Q Yes. A Yes.

Q Until when? A Until the furniture was moved in.

Q Well, that was four o'clock? A Yes.

Q Then where did you go? A The furniture was moved in at four o'clock. I had to wait until it got all moved in.

Q Well, after it got all moved in, where did you go? A I went to Childs'.

Q What time? A That, I should judge, was about half-past five or six o'clock.

Q In the afternoon? A In the evening.

Q And did you go there alone? A I did.

Q And had Ruff been there from the time the furniture was moved in up to that time? A I can't remember.

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

Q Where did you go from Childs'? A From Childs' we went to a moving picture.

Q Who is we? A Ruff and I.

Q Oh, so you went to Childs' with Ruff? A No.

Q Well, where did you meet Ruff? A I saw him at Childs'.

Q You saw him at Childs'? A Yes.

Q And then you went to a moving picture where? A Well, I didn't go to a moving picture directly from Childs'; I went to my mother's house.

Q Where does your mother live? A 40 West Kinney street.

Q And did you go there with Ruff? A No.

Q Well, where did you leave Ruff? A I left him in Childs'.

Q Oh, you went to your mother's house alone? A Yes.

Q And was that the first time you had seen anything of your mother since you came back from Wilmington? A Yes.



Q The first you had been in communication with her at all? A Yes.

Q From your mother's house where did you go? A From my mother's house I went down to Broad and Market again and I saw Ruff's car there.

Q What time was that? A Well, I don't just remember what time it was.

Q Well, about? A Well, it was early in the evening. I do not know just what time it was.

Q Seven or eight o'clock? A Perhaps.

Q Where did you see's Ruff's car? A I saw it in front of Childs'.

Q And then what did you do? A Well, I met him and he suggested going to a moving picture.

Q And then you went to a movie? A Yes.

Q What movie did you go to?

Mr. McGeehan: I object to this. This is supposed to be as of the 20th of July and I do not see how this complete examination of every detail of the girl's conduct on any day other than the day alleged is material.

The Court: What is the purpose of this?

Mr. Fisch: To lay a foundation.

The Court: I cannot see the materiality at this time.

Q And you made a statement to the police, did you not? A I did.

Q And that was on the 16th of October, 1926? A I do not remember the date. It might have been.

Q Well, you made the statement to Sergeant O'Donnelly and Sweeney? A I did not.

Q Didn't you sign a statement and didn't they witness it? A I signed a statement with Mr. Sweeney and no one else.

Q Mr. Sweeney? A Yes.

Q And did you tell them in that statement about taking your furniture from storage, out of storage? A I did.

Q And about running the furnished room house at Baldwin street? A Yes.

Q Did you tell them that you were there all last winter? A Yes.

Q And that in the early winter of 1925 you met Roma in Newark?

Mr. McGeehan: I object on the ground that the utmost the State can do is to question the witness as to prior contradictory statements upon material points of her statement, either by written statements or by verbal, but I do not think the State can produce in evidence a number of questions that are not contradictory.

Mr. Fisch: I will withdraw that question.

Q Didn't you tell them that you kept a furnished room house until about June of this year? A Well—

Q Didn't you tell them that? A I wasn't sure when I told them that.

The Court: But did you tell them that? It is not what the fact is now, but did you tell the police that?

Witness: I was taken unawares, and I had time to think it over and correct myself.

The Court: Then you did tell them that?

Witness: I must have told them if it is there.

Q And did you then tell them that then you went to Atlantic Highlands and lived between



there and Newark until you went to live at 93 Milford avenue? A Well, I didn't live there—

The Court: That is not the question; the question is now, did you not tell the police what Mr. Fisch is directing your attention to?

Witness: I was taken unaware and what I said there is as far as I can recollect.

Mr. Fisch: I ask that that be stricken out as not responsive.

The Court: Strike it out.

Q Didn't you tell them you went to live at Atlantic Highlands and was living between there and Newark until you went to live at 93 Milford avenue? A Yes, sir.

Q And didn't you tell them that you lived there about three and a half months and that Roma lived there, too, under the name of Miller and Roma? A Where?

Q At Milford avenue? A At Milford avenue?

Q Yes. A Yes.

Q And didn't you tell them that you did not see Roma while you were going to Atlantic Highlands and did not meet him again until about the 1st of July?

Mr. McGeehan: I object to that on the ground that it is not contradictory of anything stated on direct examination and not contradictory to any material part of the testimony.

The Court: I will allow that question.

A As far as I could recollect.

Q What is that? A As far as I could recollect.

Q You told them that, didn't you? A Yes, sir.

Q Didn't you tell them that Roma offered to come and board with you to help you with the expenses?

Mr. McGeehan: I object to that as not contradictory of anything on direct examination.

The Court: I don't think she so testified on direct.

Mr. McGeehan: I don't think she was asked at all on direct as to boarding or paying the expenses and I hardly think it is a material point.

The Court: I don't know whether the precise question was asked, but there was some reference to that on cross examination, and this might be contradictory.

Mr. McGeehan: Well, these objections are in the interest of saving time more than anything else.

The Court: I think the question has been answered, hasn't it?

Witness: No, sir.

Q Didn't you tell them that you moved in on Monday after the 15th, which was July 19th? A Monday after the 15th?

Q Which was July 19th?

The Court: Mr. Prosecutor, are you quoting the language of this witness now?

Mr. Fisch: Yes, your Honor.



A As far as I recollect it is was the 19th, but I later saw my mistake.

Q Didn't you tell that to the police? A Yes, I did, yes.

Q And didn't you tell them that Roma did not come to board until a week or two after? A Yes, sir.

Q And didn't you tell them that you recalled on Monday, the 19th, you straightened up your living room alone? A Well, if it is there I must have told them that; yes, sir.

Q And that you did not have any visitors?

Mr. McGeehan: When, Mr. Prosecutor?

Q On that day? A I cannot remember having any.

Q Didn't you tell them that? A Yes, sir.

Q And that you did not go out that night because you were too tired after cleaning during the day? A Yes, sir.

Q And that you did not see Roma that night? A Yes, sir.

Q Now, you were present, were you not, at the time when Roma was arrested? A Yes.

Q And he was arrested in your apartment? A Yes.

Q And at the time of his arrest and after his arrest, did the police visit your home, did they not?

Mr. McGeehan: I ask, for a moment, before this evidence is introduced, that I have a motion to make in the absence of the jury. I would like to make it in the absence of the jury.

(The jury retires.)

Mr. McGeehan: The State has exhibited to me and was about to exhibit to the jury in questioning, two objects that appear to be opium pipes. The purpose—they were about to question this witness, and I say that nothing on her direct examination warrants the showing and revelation to the jury of these pipes, that they would be calculated to injure the defendant in the eyes of the jury by items not evidential in this case, and would not be proper to introduce them in the cross examination of this witness, but the harm would be done by the showing of them to the jury and I move that the Prosecutor be instructed by the Court not to show those pipes to the jury and not to ask—and that in the examination of this witness they be not shown at least before the Court rules upon the admissibility of such evidence, because once shown that they were found in the apartment of this witness, the harm is done.

The Court: I will reserve decision.

(The jury returns into court.)

The Court: I will reserve on the offer. I will take it now that you are about to offer it and there will be no need to present it to the jury.

Mr. Fisch: If your Honor please, might we not be permitted to ask a question without exhibiting them?

The Court: If it were not her condition at the time, with the same effect as though you would ask a man weren't he under the influence of liquor?

Mr. Bigelow: But you will not let us go further than that and ask her about her use of them?



The Court: Not at this time. I quite agree with you on the general proposition that things found in their possession are evidential.

Q Now, I believe you testified at the time of Ruff's arrest you were present? A Yes, sir.

Q Do you know whether at the time he was under the influence of any drug or opiate or opium? A He was not.

Q And you were also taken into custody, were you not? A Yes, sir.

Q Were you at the time that you were taken into custody under the influence of opium? A No, sir, never was.

Q You smoke opium, do you not? A I do not.

Q You were in the possession of the implements for the use of opium, were you not?

Mr. McGeehan: I object to that as improper.

The Court: Sustained.

Q Weren't opium pipes and an opium layout found in your possession at the time you were taken into custody?

The Court: I will sustain the objection.

Mr. McGeehan: Of course, the question itself does the harm and after the Court's previous ruling I did not think the Prosecutor would do that.

Q Have you ever been convicted of crime? A I don't know whether it was a crime or not, I don't think it was a crime.

Q What is that? A I don't think it was a crime.

Q What court was it? A It was in Judge Martin's private chambers.

Q Oh, in his private chamber? A Yes, sir.

Q And what was it that you were convicted of that you do not think is a crime? A I forgot what you call it, juvenile delinquency.

Q Well, weren't you convicted of incorrigibility? A That is the same thing?

Mr. McGeehan: I object to that. I don't think that is a crime, I am not sure.

The Court: How long ago was this?

Witness: I don't know, about nine or ten years ago.

Q You were seventeen years of age, weren't you? A That is the age I gave.

Q What is that? A Yes, sir.

Q That is the age you gave? A Yes, sir.

Q That was in the Essex County Court of Quarter Sessions, was it not? A That I was sentenced?

Q Yes. A I was sent to a home.

Q Well, you were put on three years probation, weren't you by Judge Martin?

Mr. McGeehan: I object to that on the ground that it has not been shown—I don't want to shut off a proper question—but the witness has stated what it was in regards to. She says "juvenile delinquency" and the Prosecutor says "incorrigibility." Now, if that is not a crime, I don't think it is proper to go further with the examination of what the court did.



The Court: No, I was thinking of a juvenile proceeding, but it was not, and therefore it is evidential in this case, she was over the age of sixteen. The Prosecutor directed her attention to something which she seems to be in doubt about. She wants to know whether it is the case where she was sent to a home, and he is talking about whether she was put on probation.

(Argument.)

The Court: I assume anything before the Quarter Sessions, while it is a misdemeanor, is under the section of the Evidence Act which permits a reference to a conviction of crime.

Mr. McGeehan: He is asking the witness about a probation—

The Court: He is trying to find out about it and this witness is one who can tell us best.

(Last question read.)

Counsel for defendants, Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

A I was not by Judge Martin.

Q Wasn't that on June 17, 1917? A I don't remember.

Q Weren't you convicted of fornication? A Never in my life.

Q On March 19, 1925? A No, sir.

Q Didn't you plead guilty to it? A No, sir.

Mr. McGeehan: Will the Prosecutor tell us in what court that is supposed to have occurred?

Mr. Bigelow: In the Quarter Sessions, I think.

Mr. Fisch: December Term, 1924, of the Essex County Quarter Sessions.

The Court: Then you did not mean 1925?

Mr. Fisch: March 19, 1925, a plea of not guilty.

Mr. McGeehan: Well, I assume the Prosecutor will offer in evidence the evidence of a conviction such as this. He just stated a plea of guilty was entered. Of course, that is not evidential, but if he has proof of such conviction, he will put the record in.

Q Were you ever in the House of Good Shepherd? A No.

Mr. Bigelow: We have sent for the allegation in the first matter we spoke of and will introduce it at the proper time. I want to say now as to the second alleged offense that was just mentioned, it may be that that was another person and we are looking that up, and unless we can establish that it is this witness, we will state frankly to the jury.

Mr. McGeehan: That is with reference to the statement she was convicted of fornication in the Quarter Sessions.

Mr. Bigelow: Yes.

Q Did the late Mr. Gascoyne file an allegation against you in the Court of Common Pleas of this County?





Mr. McGeehan: I object to that as not being authorized by any law or statute.

Mr. Fisch: I will not press it. That is all.

*Re-direct examination* by Mr. McGeehan.

Q When you were arrested, the police asked a lot of questions about the 19th of July and where you were on that date and so forth? A Yes.

Q And were you trying to think where you were at that time? A I was trying my best.

Q Did you know you moved into your new apartment around the 19th of July? A Yes.

Q You told them that? A Yes.

The Court: Is your question around?

Mr. McGeehan: Around the 19th of July.

Q And you had no records before you at that time?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q Have you refreshed you recollection as to the exact date that you moved in and that the furniture was moved in? A Yes.

Q I show you what purports to be a letter signed by Frank McGraff, President of the Roseville Storage Company, and ask you whether you used that with other records in refreshing your recollection as to the exact date you moved the furniture to the apartment on Milford avenue? A Yes.

Q And what was that date? A July 20th.

Mr. McGeehan: I offer that to be used in the cross examination.

Q Now, you were asked whether, at the time you were arrested or the defendant was arrested, by the several detectives who were there, whether he or you were under the influence of any drugs or opium and answered no, is that right? A Yes.

Q Did you ever in your life yourself or ever while you knew Ruff ever see him take any drug whatever? A Never. He was very prejudiced against anything of that sort.

Q Did the police, whoever they were, who arrested the defendant Capozzi, say anything along such lines at the time they arrested him or was any question ever before asked you like that? A No.

Mr. Fisch: I object.

The Court: Sustain the objection. Just wait until I rule before you answer.

Q You say you were there when he was arrested? A Yes.

Q Did they sit down and have breakfast with him before taking him out of the house?

Mr. Fisch: I object.

The Court: Sustain the objection.

Q You were asked whether you were ever convicted of crime, the House of Good Shepherd was mentioned sometime in 1924 or 1925, and you were asked if you had been convicted of fornication. Have you been convicted of anything or punished by any judge under any circumstances except the time about eight or nine years ago



when it was either juvenile delinquency or incorrigibility? A That was the only time.

Q And you are sure about that? A Positively.

Q Now, at that time, were you before another judge before you came before Judge Martin? A Yes.

Q And you were sent to a home, were you? A Yes, sir, by Judge Martin.

Q Where? A To the State Home for girls.

Q And you gave your age as seventeen at that time? A Yes.

Q Were you older or younger than that? A I was younger.

*Re-cross examination* by Mr. Fisch.

Q Now, outside of the letter which you referred to on the witness stand, that was the only thing you used to refresh you recollection? A Yes.

Q And outside of that you have no recollection as to the day?

Mr. McGeehan: I object to that. She has not said that.

The Court: I will overrule the objection. I think it is proper.

Q (Question read.) A Well, I knew it was very close to it; if it was not the 19th, it was the 20th.

Q You knew that? A Yes, when I got home—

Q But irrespective of what day it was when your furniture came in, you say now that you went to Childs' that night and there saw Ruff and left him there and then went to your

mother's and then came down and met Ruff and went to a movie? A Yes.

Q In spite of the fact that you told the police that on the 19th, on the day your furniture came in you had no visitors in the state home because you were so tired from cleaning up the place? A Yes, sir.

Q And that you did not see Ruff that day?

Mr. McGeehan: I object to the form of the question, "In spite of the fact—

The Court: That has been answered. This is another question.

Q You told the police that you did not see Ruff that day? A What day?

Q On the day you moved your furniture in or on the 19th? A That is what I knew then, I know better now.

Q You know it better now?

Mr. McGeehan: She did not say that, she said, "I know better now," not "I know it better now."

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JOHN J. FRIEND, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Friend, where do you live, please? A 175 James street, Newark.

Q How long have you lived in Newark? A All my life.

Q Are you in business in Newark? A Yes, sir.



Q What kind of a business have you? A Floor covering business.

Q And that includes linoleums and carpets, does it, or what? A It includes everything in the line of covering floors.

Q Where is your business located? A Clay street, Newark.

Q How far away from Mt. Pleasant avenue on Clay street is your business located? A You see, I don't know which store you mean to refer to.

Q Have you more than one store? A Yes, sir, three.

Q Where are your three stores? Let me explain the map to you. This is Broad street over here and this is Clay street going down towards the bridge, and this is Carlisle place, and this is Ogden street, and this is Mt. Pleasant avenue and that is the Reid plant up here and Clay street continues over here where Carlisle place turns off from it, and the gas station is on that corner (indicating). Now, do you know the map and the locality? A Yes, sir.

Q Now, where are you stores? A Well, I have one store here (indicating.)

Mr. McGeehan: Indicating a point at Carlisle place, approximately 160 feet from the corner of Mt. Pleasant avenue on the northerly side of Carlisle place.

Mr. Bigelow: And the building shown is yellow on the map?

Mr. McGeehan: Yes, sir.

Witness: And I have one right here.

Mr. McGeehan: And one about midway between that point and Mt. Pleasant avenue

or at a point about 70 feet from the corner of Mt. Pleasant avenue?

Witness: And I have one here.

Q Now, you are indicating a point where the big factory is 81-85 Clay street. A Well, it would be right here then (indicating).

Q Next to the big factory? A Yes, sir.

The Court: Nearer to Spring street, Mr. Friend?

Witness: Yes, sir.

Q Now, I show you Exhibit S. 10, does your store, one of your stores, show on there? A Yes, sir, right there (indicating).

Q You are indicating a store next to 81-85 where it says "linoleum?" A Yes.

Q Is that No. 79? A Yes, sir.

Q So you have three stores in that vicinity, is that right? A Yes, sir.

Q Does each one carry a different line, Mr. Friend? A No, sir.

Q Now, were you in the vicinity of Clay street and Mt. Pleasant avenue on the morning of July 19th? A Yes, sir.

Q What time did you get down to that vicinity that morning? A About 8:30.

Q From 8:30 on did you remain in that locality? A Yes, sir.

Q Did you after arriving in that vicinity or any time that morning notice anything unusual in that locality? A Well, I did, about sometime between nine and nine-thirty.

Q Yes. A There happened to be two men come along the street, and as a custom, we usually ask customers—



Mr. Fisch: I object.

Q You cannot tell us what you usually do in regard to customers. Two men came along, now tell what occurred. A I asked them if they wanted any linoleum and they said no, and they walked on to Ogden street.

Q Did you continue to see those men in the vicinity? A Yes, sir.

Q Where and how often, for how long a time did you see those men hanging around there? A Well, I went across the street with a customer, a lady, and I told the salesman to take care of one store, and I went across the street and as I went across the street I saw the same two men standing on the corner.

Q What corner did you then see them standing on? A The corner where the gasoline station is.

Q You saw them standing there? A Yes, sir.

Q When you first saw them which one of your stores were they passing, the one on the north side of Carlisle place or the one that you showed us in the picture? A It was the first store.

Q The first store, the one nearest to Mt. Pleasant avenue? A Yes.

Q On the north side of Carlisle place? A Yes.

Q Now, the next time you saw them was when they were at the gas station? A That is right.

Q Now, did you see them after that? A No.

Q How long did you see them in that vicinity altogether between the first time you saw them and the last time you saw them? A It may have been half an hour.

Q Did you seee anything of the hold-up itself? A No.

Q Did you see anything of the hold-up while it was taking place? A No, sir.

Q Did you hear any shots? A No.

Q Did you learn that a hold-up had taken place later that day? A Yes.

Q And did you them remember or not the men that you had seen hanging around there early in the morning, I mean did you remember seeing such men when you heard about the hold-up? A Yes.

Q Now, did you notice anything of a big car standing on Clay street during that time? A No, sir.

Q Were there various vehicles in and out of that street then? A I couldn't say.

Q You do not remember seeing any closed car at that time? A No.

Q Now, you have been at police headquarters a number of times, haven't you? A Yes, a good many times.

Q And you have been in court here during the trial of this case? A Yes.

Q You have seen the defendants sitting along this line here? A Yes.

Q Are any of the men here the men that you saw on that morning? A I couldn't say.

Q Do they look in any way like the men that you saw? A I couldn't say.

Q Eh? A I couldn't say.

Q But you cannot recognize any of the men here as the men you saw then, can you? A No.

Q And you were subpoenaed by the State? A Yes.

Q You had a pretty good look at the men, did you? A Fairly.



Q And spoke to them? A Yes.

Q If you saw those men again, do you think you would know them? A No, sir.

Q How were the men dressed that you saw? A Well, to my recollection, I believe they had dark suits, well dressed, straw hats.

Q Now, when the hold-up occurred, how soon after did you learn about it? A Ten minutes.

Q About ten minutes? A Yes.

Q Did you hear anything or see anything in the happening of it? A No, I didn't.

Q Did you see the men whom you had seen on the corner there in that vicinity when you learned that the hold-up had happened just before that—were the men still there or not after the hold-up? A No.

Q Did you see anything but their leaving the corner at the time of the hold-up? A No.

*Cross examination* by Mr. Bigelow.

Q I understand that you have one store about here on the map? A Yes.

Q One about here? A Yes.

Q One here? A Yes.

Q And that you sell from all these stores? A Yes.

Q I suppose that is to catch people on both sides of the street, going and coming? A Yes.

Q It must be a pretty busy street along there? A Yes.

Q And if you see a man who looks like a prospect, you ask him if he wants some floor covering? A Yes.

Q And that morning you asked two men if they wanted floor covering and they told you that they were not customers? A Yes.

*Edward J. Kelly, direct.*

Q And afterwards you saw those two men on Mt. Pleasant avenue? A Yes.

Q And you do not know whether those two men had anything to do with the Reid hold-up, whether they were just standing around and you do not know if those men are the defendants or not, is that correct? A Yes.

The Court: I understood you, in response to a question by Mr. McGeehan, to say you could not identify those same two men if you saw them again.

Witness: No, sir.

The Court: You could not?

Witness: No.

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EDWARD J. KELLY, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q You are acquainted with the defendants in this case? A I am.

Q Which ones do you know? A Big Joe Juliano.

Q And are you acquainted with Ruff and Chris Barone as well? A Just to say "Hello."

Q You know Joseph Juliano best? A I do.

Q Do you speak to Joe? A Yes, sir.

Q Do you remember meeting him some time in the month of July? A I do.

Q Do you or don't you remember what date it was? A I don't recall the date.

Q Did you on some day in July go to the Packard company on Central avenue? A I did.



*Edward J. Kelly, direct.*

Q Do you remember that occasion without remembering what day of the week or month it was? A I do.

Q Now, did you on the day that you went to the Packard place on Central avenue, prior to the time you went there, meet Joe Juliano? Before you went there that day did you see Juliano? A I met him on Drift street.

Q About what time was it you met him on Drift street? A Some time in the morning, I don't recall the time.

Q Can you tell us approximately what time it was, not the hour, but around what part of the morning it was? A Around noon.

Q And when you met him on Drift street around noon where did you go with him, if anywhere? A Why, we went—I went in his car with him from Drift street down to Child's restaurant on Market street.

Q And that was around noontime you say? A Yes, sir.

Q Now, after that where did you go? A I stayed there for about an hour in the car while he went into the restaurant.

Q And after that where did you go? A Buck Joseph, Barone, Silverman and Juliano got into the car and we went up to the Packard people.

Q And were you with them? A I was.

Q That was on Central avenue? A Yes, sir.

Q What kind of a car did you see there? A A Packard, straight-eight, green touring car, gray.

Q Gray or green? A Gray.

Q And after going to the Packard place where did you go after that? A We stayed at the Packard place a little while and then we

drove downtown to Child's restaurant again and I left them.

*Cross examination* by Mr. Bigelow.

Q Mr. Kelly, where do you live? A 677 Springfield avenue.

Q And you were up on Drift street around noontime this day? A I was.

Q Walking? A I was at 37 Drift street.

Q Whose place is that? A Mr. Grande's.

Q Gillie Grande? A Gillie Grande.

Q How long had you been there? A That morning?

Q Yes. A About two hours.

Q Did Juliano come in there? A Yes, sir.

Q He came into the place? A Yes, sir, he did.

Q Alone? A Alone.

Q And then you left with him? A I left with him.

Q Where did you find his car, or where did he find his car? A I don't recall where he found his car.

Q But he found it somewhere and got in, I suppose, and drove downtown? A Yes, sir.

Q Do you recall whether you walked a half a block or so from Grande's before you got into the automobile? A The car was in front of Grande's.

Q What is your occupation? A Nothing at present.

Q You were on the police force of Newark at one time, weren't you? A I was.

Q How did you happen to leave the force?

Mr. McGeehan: I object to that, I don't think that is relevant.



The Court: I will allow it.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A I got dismissed.

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ANGELO GRANDE, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Grande, you are known as Guili Grande? A Yes.

Q And you have a place at 37 Drift street? A Yes.

Q What kind of place is that? A Cafe.

Q And are you acquainted with Joseph Juliano, the defendant in this case? A Yes.

Q That is, Big Joe Juliano? A Yes.

Q And did you run the saloon at 37 Drift street in the month of July? A Yes.

Q Have you a telephone in that place? A Yes.

Q What is the telephone number? A Mitchell 0936.

Q Do you remember whether you received any 'phone calls from Joseph Juliano during that time at your place? A Yes.

Q Are you related to a young man by the name of Tony Grande? A Yes.

Q What is his relationship to you? A He is a second cousin.

Q And does he drive a car? A Yes.

Q Can you tell whether during the summer of 1926, he drove for Joe Juliano on occasions? A Yes.

Q How often? A Well, all the month of July, I think, and part of August, off and on.

Q Did he go down to the shore with the Juliano family? A Yes.

Q Now, can you say whether Joseph Juliano ever called for Tony Grande at your place? A Yes.

Q Do you remember the date of any particular 'phone call such as that was made? A No, sir.

Q Can you tell one way or the other whether or not you received a telephone call from him asking for Tony Grande on the 19th of July? A Well, he has called up there.

Q I say, can you tell one way or the other or don't you remember whether you received any particular call on the 19th? A No.

Q You cannot? A No.

Q But you know that he frequently called up for your cousin, Tony Grande? A Yes.

Q Through your 'phone? A Yes.

Q Do you know whether Tony Grande sometime in the month of July drove several ladies down to the shore? A Well, I know a number of them had been, but I do not know the time.

Q You know he drove them down, but you do not remember what date it was? A That is right.

Q Did you see him drive some ladies down in July? A Yes.



Q And who were those ladies that you remember his driving down? A It was Joe's sisters and another girl.

Q Joe's sisters and some other girl? A Yes.

Q Do you know what time in the morning they left for the shore? A No.

Q By the way, you have been convicted of transporting liquor once, have you not? A Yes.

*Cross examination* by Mr. Bigelow.

Q Is that the only time you were convicted of crime? A Running a pool room, I was raided.

Q Was the pool room at 37 Drift street? A No, sir.

Q Do you live at 37 Drift street? A No.

Q What time do you open up in the morning? A Eight o'clock.

Q Do you open the place yourself as a rule? A I did.

Q You did? A Yes.

Q When did you? A I done it for four months.

Q When was that? A Well, starting in the summer.

Q During the past summer? A Yes.

Q Didn't you take any vacation? A No, sir.

Q What hour did you close up during those four months? A Half past ten, eleven or twelve o'clock.

Q And you stayed there yourself all day? A I would get relieved to go and eat through my brother.

Q Do you recall any occasion when Kelly, the ex-policeman who has just testified, was

around at your place? A Well, I know he has been there, but I cannot remember. He has been there often.

Q He has been there often during the past summer? A Yes.

Q And I suppose Big Joe Juliano has been there often? A Yes.

Q Has Kelly ever received any telephone calls in your place? A Well, I don't know whether he has. He has answered 'phone calls, but I don't know whether they were for him. If I would be sitting outside, I would say, "Answer the 'phone."

Q I suppose men who do hang around there get called up some times? A Yes.

Q Juliano called up there sometimes? A Yes.

Q Do you know the defendant Barone? A Yes.

Q And Capozzi? A Yes.

Q And Little Joe? A Yes.

Q They all are around your place more or less? A Only Little Joe Juliano did not hang there. That is all.

Q The other three did? A They used to come up there often. You know, like once a week, twice.

Q Do you know Mr. Amore who works for Armour & Company? A Yes.

Q He used to be around your place two or three evenings a week, didn't he? A Yes.

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ANTHONY GRANDE, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Grande, you are Tony Grande? A Yes.

Q Are you related to Angelo Grande, who was just on the stand? A I am.

Q And do you know Joseph Juliano, the defendant in this case? A I do.

Q Have you ever driven a car for him? A Yes.

Q And when did you drive most frequently for him? A July and August.

Q This year? A Yes.

Q What places did you drive in, was it up here or down at the shore? A Mostly around the shore.

Q Were you down when his family were at the shore? A Yes.

Q When did they go down to the shore? A I think it was the first of August.

Q Now, sometime before that, did you drive any ladies down in Juliano's car to the shore? A I did.

Q About how long was that before the first of August when you went to the shore for the summer or two weeks? A About a week or ten days.

Q And who were the ladies that you drove down? A Joseph Juliano's sister, his mother—two of his sisters, his mother and his small sister and girl friend.

Q And you drove the car? A I did.

Q The nearest you could fix that time is a week or ten days? A Yes.

Q You do not know the exact date of that, do you? A No.

Q When you left that day, do you remember what time you started out to take them down? A 7:30 or 8 o'clock.

Q 7:30 or 8 o'clock in the morning? A Yes, sir.

*Cross examination* by Mr. Bigelow.

Q Where do you live? A 26 Drift street.

Q During this past summer did you have any occupation besides driving Juliano's car? A I did not.

Q And you did not drive for him every day, did you? A No, sir.

Q Did you report at his home every morning to see if he would want you that day? A No, sir.

Q Where did you go to see whether he would want you? A He called up my cousin Gilli Grande and asked him if I was around.

Q Then the next time you dropped into Gillie Grande's you would know that he wanted you? A He told me about it.

Q You lived right across the street from your cousin Juliano's place? A A little below that.

Q When did you start to drive for Big Joe? A July and August.

Q When did you start, do you know, when did you first drive for him? A A week or ten days before I went down on the vacation.

Q And you went on your vacation the 1st of August? A Yes, sir.

Q You started to drive for him a week or ten days before that? A Yes, sir.



Q Was the first time you drove for him the day you drove his folks down to the shore? A I drove other times.

Q Was that the first time you drove for him? A I did.

Q You understand English, don't you? A I do.

Q You don't want an interpreter? A I do not.

Q Was the time you drove his folks down to the shore, Mrs. Perrotti, I think her name was, and his other sister, Miss Genevieve, or whatever her name is, and his mother, was that the first time you had driven for Big Joe? A No, sir.

Q You understood that question, didn't you? A Repeat it over again.

Q When was the first time you drove for Big Joe Juliano? A A week or ten days before August 1st.

Q And a week or ten days before August 1st, you testified that you drove his mother and his sisters down to the shore? A I did.

Q Was that the first time you drove for him? A Yes, sir.

The Court: Do you remember the Reid hold-up.

Witness: No, sir.

The Court: Where were you when that happened?

Witness: On Drift street.

The Court: What did you mean when you said you didn't remember?

Witness: I don't remember the date, I knew it when the papers came around.

The Court: You knew it from the newspapers, when?

Witness: The day it occurred.

The Court: Did you drive an automobile that day?

Witness: No, sir.

The Court: Did you drive the next day?

Witness: I did.

The Court: How do you remember that?

Witness: Because I drove his people down.

The Court: Is that the day?

Witness: Yes, sir.

The Court: What did you do the day before, the 19th?

Witness: I hung around.

The Court: You hung around where?

Witness: On Drift street.

The Court: And what did you do the day before that?

Witness: I can't recall it.

The Court: What did you do the 21st?

Witness: I can't recall it.

*By Mr. McGeehan.*

Q And you know and you can recall what you did the 20th? A I drove Joe's mother.

Q That is because you have been questioned about this case that you knew that date? A Yes, sir.

Q But it did not come from your own memory? A No, sir.

Q That is why you testified that you cannot tell what date of the month it was, is that right? A Yes, sir.



JOHN H. McDONALD, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. McDonald, where do you live? A 343 Washington avenue, Nutley.

Q Are you engaged in business there? A In the garage business.

Q Do you own a garage? A Yes, sir.

Q That is, you are the proprietor of the garage business? A Yes, sir.

Q Do you lease a garage there? A I own a garage there.

Q You own the property as well? A Yes, sir.

Q How large a garage is your place? A Well, it will hold around twenty cars.

Q And do you sell gas, oil and grease? A I do.

Q How many men work for you? A One and myself.

Q How long have you conducted that garage—it is known as McDonald's garage, is that right? A Yes, sir.

Q How long have you conducted that garage? A I have been there since 1922.

Q Now, among your customers have you members of the family by the name of Barone living in Nutley? A I do.

Q And what members of that family have you done business with in connection with your garage? A Practically all of them.

Q Do you know the defendant Chris Barone? A I do.

Q Do you see him here? A I do.

Q Where is he? A Right over there, the second from the end.

Mr. McGeehan: Indicating the defendant Chris Barone.

Mr. Bigelow: Right.

Q Now, Mr. McDonald, what business did he and the other members of the family do with you, that is, what did they buy from you? A Well, they bought gas, oil and accessories that anyone running a car would need.

Q Now, do you remember an occasion when you assisted—did a young man drive a car for the Barone family? A Well, a fellow I knew by the name of Ambrose.

Q Now, did you, assisted by Ambrose, grease a car for the Barone family one day in July? A On Monday, the 19th.

Q On Monday, the 19th? A Yes.

Q Do you keep records, Mr. McDonald, of the sale of grease and gas and oil at your garage? A All charge sales.

Q Now, have you looked up, at my request, the record for the day that you say this greasing for the car by you and Ambrose took place? A I have.

Q I show you a package of slips number 187-1, 187-2 and so on consecutively—I will withdraw the word consecutively; are they all here? A Well, they ought to be, unless one or two is missing.

Q All right. Numbered consecutively one to fifty, is that correct? A That is right.

Q And where did you get these from? A Well, I have them on hand all the time.

Q Where did you get each slip from, do you tear them out of something? A I tear them out of a book.

Q Now, when you sell an article, where do you make an entry? A On one of these slips.



Q And have you a slip under date of July 19th, 1926? A I have.

Q Who was that made out to?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q I asked you to refer to that slip. Does that assist you or refresh your recollection? A That charge was against Christopher Barone.

Q And you have looked at that slip, have you? A Oh, yes.

Q Does that assist you in refreshing your recollection as to what you sold him on that day? A It does.

Q And what did you sell him on that day? A I sold him gas, oil and grease.

Q How much grease did you sell him? A Four pounds.

Q And does the fact that you sold him four pounds of grease assist you in remembering the day when you helped in the greasing of that car? A Well, in looking over the slips is the only thing that assisted me in finding the dates.

Q Well, now, do you know the date that you put the grease in the car, is the date you sold him those four pounds of grease? A Absolutely.

Q And this is your original record? A That is the copy I keep.

Q The copy that you keep? A Yes.

Q That is your record? A Yes.

Mr. McGeehan: I offer that in evidence.

Mr. Bigelow: Oh, I object to just one.

Mr. McGeehan: Well, I offer them all.

Mr. Bigelow: I was wondering if counsel can continue with the witness.

Mr. McGeehan: I haven't many more questions.

The Court: Well, ask him what you have.

Mr. McGeehan: There is another slip I wanted to ask him about in that.

Mr. Bigelow: I understand he has the rest of the slips for the summer here.

Mr. McGeehan: I don't know what they cover.

Witness: Just one month, July.

Mr. Bigelow: We have no objection to the admission of these slips provided we are given the opportunity to look over the others.

Mr. McGeehan: All right. You have that opportunity.

(Papers marked Exhibit D. 17.)

Q Now, Mr. McDonald, these are carbon copies, aren't they? A Yes.

Q And the original is given with the sale to the customer? A The first copy is given to the customer.

Q And these are numbered consecutively, this series being numbered 187, is that right? A Yes.

Q And you have with you here the bills for July? A All the slips for that particular month.

Q Now, have you any other sales of grease to Barone during the month of July? A Well, I could not remember without looking over the slips.

Q But did you sell four pounds of grease often to him? A Well, no more than was necessary.



Q Well, how often is that ordinarily necessary? A Well, I looked over the car say once every three months in the rear end and transmission and if it requires it, it gets put in.

Q Now, did you receive some money from Christopher Barone in the month of July, a payment on account of his bill with you? A Well, I cannot remember without looking up my slips to see what date I got paid. I would have to look at the slips to find out when the payment was made.

Q I show you slip No. 187-7 as part of Exhibit D. 17 and ask you whether No. 7 of that bunch shows a credit? A Yes, $50.

Q And who was that received from? A His brother Joseph.

Q And who was it made out to, whose bill was it credited on? A Christopher Barone.

Q Now, do you know that you received that $50 on the 20th of July? A Well, by referring to my slip.

Q Is that the slip you mean? A That is the slip I made and I gave him the receipt for the money because he paid it in cash, a one hundred dollar bill and he got back fifty.

Q Do you remember before you got that $50 asking Christopher Barone for a payment on account?

Mr. Bigelow: I object to that as immaterial.

The Court: Sustained.

Mr. McGeehan: The purpose of it is to fix an occurrence that later testimony will be based on.

Mr. Bigelow: The explanation, if I may call it that, seems a bit vague to me.

Mr. McGeehan: His testimony will be a bit vague on that subject, but I want the benefit of it for what he remembers.

Mr. Bigelow: I still object, your Honor.

The Court: I will allow it, as being relevant, perhaps, to another fact that might be made relevant by this.

Mr. McGeehan: It will be fixed definitely by other testimony.

Q Before you got that fifty dollars, sometime before that, did Christopher Barone owe you any money? A He owed me about $112 to be exact.

Q That was on his current account with you? A Well, on a bill that had been running for a little time.

Q He ran a bill with you? A He did.

Q Now, did you ask for payment on account of what he owed you at that time? A I asked him to give me a little money sooner or later that I needed it.

Q Do you know whether you asked him that before or after you got the $50? A I asked him before.

Q Now, do you know how long it was before, whether it was a day or week or what length of time? A That I cannot tell you.

Q You know when you got the $50 you previously asked him to let you have a little something on his bill, is that right? A That's correct.

*Cross examination* by Mr. Bigelow.

Q Mr. McDonald, Chris Barone kept some kind of a resort just about opposite your garage, did he not? A Well, he lived over there.



Q And he was, I take it, a good customer of yours, his bill amounting to $112? A Well, he is pretty good.

Q Did any other members of the family have accounts with you? A They all had accounts, all those old enough to operate automobiles.

Q I notice in those slips that have been introduced in evidence about five items of sales to Chris Barone and none to any other Barone, is that about the way the account was usually run? A Well, sometimes the car was broke down and it was not operated and the tires might be poor on it and they did not seem to be buying any new tires and it would lay in the backyard.

Q And all repairs of gas and oil, tires and so forth, for Chris Barone, I suppose was charged to him, were they not? A Well, I would not charge anything to him unless he got it; any other charges they would try to put on his bill I would not put down. It was charged to the proper one that I thought owned the car.

Q Well, I am not intimating that you did not charge it to the right person, Mr. McDonald, but if his car was brought over to you to be filled with gas you would charge that to him, would you not? A Oh, yes.

Q And if his car came over and needed a new tire and that would be charged to him, would it not? A I would not supply him with no tire.

Q But you did that with gas and such things? A Oh, sure.

Q Now, do you remember yourself, at the present moment, that he filled his car up with grease? A I remember the occasion of putting the grease in the rear end of his car.

Q You helped the young man named Ambrose, I think you said? A He greased the car

over, but I only looked at the transmission and the differential.

Q Was this at your garage? A Right in the doorway.

Q Was anybody else present? A My mechanic.

Q Just you and your mechanic and Ambrose? A That's all.

Q What kind of a car was it? A A Cadillac coach.

Q And this was the same day that you sold him the grease? A That was the operation.

*Re-direct examination* by Mr. McGeehan.

Q Do you remember who drove away with that car or not, Mr. McDonald, on that occasion? A Well, that I don't recall.

Q Does the driving away of the car rest in your memory at all, do you remember that? A No, I can't say that I do.

Q You don't know how many men got into the car there, do you? A No.

Mr. Bigelow: He had already testified that he don't recall it.

Juror No. 6: I would like to ask the witness who, if anybody, signed that charge slip that day?

Witness: Well, I don't as a rule have them sign the slip. They come in and they get the stuff and their credit is good and I just give it to them.

Juror No. 6: The slip was not signed then?

Witness: No, sir, none of the slips were signed.





*By Mr. McGeehan.*

Q The writing "C. Barone" and "Credit $50" is all in your own handwriting? A That is my handwriting.

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MARION MILLER, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q You are the mother of Miss Miller who testified this morning? A Yes.

Q And do you remember her making a trip out of town in the month of July of this year? A Do I remember what?

Q Her going out of town? A Yes.

Q Where did she go to?

Mr. Bigelow: I object.

Mr. McGeehan: I will withdraw it.

Q Where did you understand she was going?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q Now, was your daughter away for about a week in the month of July? A Yes.

Q Do you remember when she arrived home, that is, not the date necessarily, but do you remember the fact that she came back to Newark? A Yes.

Q And what is your telephone number at your house? A Mulberry 4895.

Q Mulberry 4895? A Yes.

*Marion Miller, direct.*

Q Do you know the defendant Capozzi? A Yes.

Q What name did you know him by? A Under the name of Ruff and Mr. Roma.

Q Did you receive a telephone call from him at any time around when your daughter came back from that trip? A I received a telephone, yes.

Q And what did he say when he 'phoned? A He said that—

Mr. Bigelow: Oh, I—

Mr. McGeehan: All right. Withdraw it.

Q Do you know when that was, when was that? Do you or don't you know the day of the month? A Well, I do not know the day of the month.

Q Well, when was it with regard to when your daughter got back, if you cannot think of the day of the month? A It was on a Monday my daughter came back.

Q It was on a Monday? A Yes.

Q And do you remember what day of the week it was you got the 'phone call from Ruff? A Yes.

Q How do you remember what day of the week it was? A Well, because I remember every Monday in the year I wash, I do my family washing, and I just got through with my washing and I received his telephone call.

Q Do you remember what time it was he called you? A Yes.

Q About what time was it? A Well, somewhere around twelve o'clock. I am not just positive if it was on the minute of twelve, but it was around twelve o'clock.



*Christopher Barone, direct.*

Q Around noontime? A Yes.

*Cross examination* by Mr. Bigelow.

Q Where were you living at that time? A 40 West Kinney street.

Q And what time on that Monday did you see your daughter? A Well, I should judge it was around half-past six to seven o'clock. I cannot say. I do not remember just the hour.

Q She dropped in about half-past six or seven? A As near as I can recall. I am not positive.

Q And that same day you had received a telephone call from Ruff about twelve o'clock? A Well, I do not say positive twelve o'clock, but I say in the neighborhood of twelve o'clock, around noon.

Q That was the same day? A Yes.

Q And you had just gotten through your washing? A Well, I had not just got through, but I remember I washed on that morning.

Q You had been through perhaps a little while? A Yes.

Recess from one to two P. M.

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After Recess.

CHRISTOPHER BARONE, one of the defendants, sworn in his own behalf.

*Direct examination* by Mr. McGeehan.

Q Mr. Barone, you are one of the defendants in this case, are you not? A Yes, sir.

Q How old are you? A Twenty-one.

Q Are you married or single? A Single.

Q Are your parents living? A Yes, sir.

Q You have brothers and sisters? A Yes, sir.

Q And you have made your home with them? A Yes, sir.

The Court: What is that you say, your parents are living?

Witness: No, my father is dead.

Q Your mother is living? A Yes, sir.

Q And your brothers and sisters? A Yes, sir.

Q And where did you make your home with them? A 242 Washington avenue, Nutley.

Q Now, in addition to that being your home did you or your family conduct any business at that place? A They did.

Q What business? A Restaurant.

Q Barone, you have been convicted of larceny and receiving in connection with a ring or two rings were you not? A I was.

Q And what were the circumstances of that?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Mr. McGeehan: But, when the state is questioning a witness on that subject—

The Court: Mr. McGeehan, I am ruling on the instant question. As a matter of fact, you have no right to ask this—

Mr. McGeehan: I know, but I permitted the same thing to be done by the Prosecutor with regard to Boudreau without objection.

The Court: But that is not a matter that controls me.



Mr. Bigelow: Do I understand that Mr. McGeehan is asking about the circumstances of this larceny? I don't recall asking Boudreau any questions as to the circumstances of the larceny. I did ask what the crime was of which he was convicted.

The Court: I will sustain the objection.

Q Now, you are acquainted with and are a good friend of the defendants Ruff and Juliano, are you not? A Yes, sir.

Q How long have you known them, Barone? A A number of years.

Q Are you acquainted with young Joe Juliano? A I am.

Q How well do you know him? A About two years.

Q Have you ever gone around with him? A No, sir.

Q Have you ever associated with him? A No, sir.

Q Have you ever come into more than casual contact with him? A No, sir.

Q But you did associate with and have a close friendship with the defendants Capozzi and Joe Juliano? A I did.

Q Mr. Barone, how have you chiefly made your living in the last few years? A Bootlegging.

Q And have the defendants Joseph Juliano, Big Joe Juliano, and Capozzi engaged in that pursuit with you? A Yes, sir.

Q Did you ever know Boudreau, the State's witness? A No, sir.

Q Did you ever, to your recollection, see him? A No, sir.

Q Were you on one occasion at or near the starting point of Passaic jitney, somewhere up

around Belleville when you were on foot and young Joe Juliano was in an automobile with some other people there? A I was.

Q When was that, about? A Three or four weeks before I was arrested.

Q And at that time did you know whether the man named Boudreau was in that car or not with young Joe Juliano? A No, sir.

Q Have you learned since that he was? A I did.

Q And you learned that from young Joe Juliano since you were arrested? A Yes, sir.

Q Barone, in the month of July, 1926, do you remember where you were on the 19th of July? A I do.

Q On what day of the week was the 19th of July? A On a Monday.

Q Do you remember where you were on Sunday night, the 18th of July? A I do.

Q At that time who was living in your home in Nutley? A Charlie Mass and his family.

Q Who did his family consist of? A She is a cousin of mine.

Q Yes, but I say, who did his family consist of? A A wife and two kids.

Q And did the wife and two children live there at your house? A Yes, sir.

Q And who else lived in your home there? A My sister-in-law and my brother.

Q Your sister-in-law and your brother? A Yes.

Q Which brother is that? A Buck Josephs, under the name of Buck Josephs.

Q That is Joseph Barone? A Yes, sir.

Q He fights under the name of Buck Josephs? A Yes, sir.

Q And is also known as Buck Josephs? A Yes.



Q To many of his friends, is that right? A Yes.

Q And the sister-in-law that you speak of is his wife? A Yes.

Q And who else was living there at the time? A My brothers and my sisters and my family—my mother.

Q Now, you have said that you know where you were on the 18th, particularly the night of the 18th and on the 19th of July, is that right? A Yes.

Q Where were you on the night of the 18th of July, on Sunday night? A Down at Child's restaurant, Market street.

Q And where did you go to sleep that night? A At my house in Nutley.

Q At your house in Nutley? A Yes.

Q Do you remember who went home with you? A Yes.

Q Who went home with you? A My brother, Buck Josephs and Charlie Mass.

Q Do you remember what time you got home? A It was after 12 o'clock. I cannot remember what time it was.

Q You cannot tell the exact time? A No.

Q But the three of you returned home? A Yes.

Q Now, on the 19th of July—I will withdraw that. Who did you meet when you came in the house, or who was up, do you know A Why, my sister-in-law was up and my brother.

Q Your sister-in-law and who is she? A My brother's wife.

Q Which brother? A **Joseph Barone.**

Q And did you leave any call with her for the next morning? A I did.

Q Did you have an appointment for the next day? A I did.

Q Who did you have the appointment with? A Max Silverman and Joseph Juliano.

Q Max Silverman and Joseph Juliano? A Yes.

Q And where was that appointment and for what time? A At Child's Restaurant, at 12 o'clock.

Q Did you have a particular interest in keeping that appointment? A I did.

Q What was the appointment for? A He owed me $1,500 and Charlie Mass had to give Joseph Juliano $1,000.

Q You were to collect $1,500 from Max Silverman? A I was, yes.

Q So you left a call for the next morning with your sister-in-law, is that right? A Yes.

Q Do you remember just what time you wanted to be called? A I do.

Q What time? A Around ten-thirty.

Q Where was your mother at that time, Barone? A Sick.

Q Uh? A She was sick.

Q How long was the period of your mother's illness around there? A Several days.

Q Do you know about how many days? A No.

Q Well, was it more or less than a week? A About a week.

Q Eh? A About a week.

Q Now, is there any Italian holiday that took place around that time? A Yes.

Q What is that Italian holiday? A I think it is—I don't know.

Q Well, say it in Italian. A Madonna del Carmina.

Q Can you spell it in English that which you just pronounced in Italian? A No, I cannot.



Q Is it M-a-d-o-n-n-a d-e-l C-a-r-m-i-n-a? A Yes.

Q Now, is that name preceded with something like LaFesta? A Yes.

Q Now, is that the feast of Our Lady of Mt. Carmel? A Yes.

Q What date does that fall? A On the 16th of July.

Q That is the biggest Italian holiday or merry day of the year? A Why, Christmas and New Year's.

Q Is this a big Italian holiday? A Yes.

Q And that comes on the 16th of July? A On the 16th of July.

Q Do you know whether your mother was sick or not on that holiday? A She was.

Q And she was still sick at the time you speak of on the 18th of July? A Yes, sir.

Q Now, were you called the following morning by your sister-in-law? A I was.

Q And who woke you up? A My sister-in-law woke me up and said, "Get up, it is after ten o'clock."

Q What? A My sister-in-law knocked at the door and she said it is after ten o'clock, get up.

Q Did you get up? A I did.

Q Who else got up with you? A Charlie Mass.

Q And did anybody else get up? A My brother was up.

Q Chris? A No, my brother, Joseph Barone was up.

Q You are Chris? A Yes.

Q And your brother was already up? A Yes.

Q Now, did you leave the house? A No, sir; not right away.

Q But when you left the house, about what time was it? A It was after eleven o'clock.

Q Now, on that occasion, did you have anyone, or did your family have anyone that drove—by the way, how many cars did your family own? A Three cars.

Q What were they? A Cadillac—two Cadillacs.

Q What else? A We had a Buick and we sold it.

Q What other car did you own at that time? A We had a truck.

Q What kind of truck was that? A Reo speed wagon.

Q And that was a truck you could cart things in, is that right? A Yes.

Q And I suppose you used that in your vocation as a bootlegger, did you? A Yes.

Q Now, how many adults are there in your family? A What is that?

Q How many people grown up are there in your family? A Nine.

Q And you had two passenger automobiles? A Yes.

Q And they were both Cadillacs? A Yes.

Q Now, do you know—I will withdraw that. Did you have somebody who drove you and the members of your family? A Yes.

Q Who was it? A Ambrose.

Q Do you call him Ambrose? A Yes, sir.

Q Is that his correct name, or Ambrose something? A I don't know, we call him under the name of Ambrose. I think it is his right name.

Q What is his right name? A I don't know.

Q Mr. Ambrose? A Just Ambrose.

Q And did he drive frequently for you and your family? A Yes, sir.



Q Now, do you know what time—you testified it was after eleven o'clock when you went out of the house? A Yes, sir.

Q Do you know what, if anything, Ambrose was doing on that car when you went out? A I do.

Q What was he doing? A He was greasing the car.

Q And where was he greasing the car? A At the garage across the street.

Q And is that McDonald's garage? A Yes, sir.

Q The garage of the man who was on the stand this morning? A Yes, sir.

Q What makes you remember that he was greasing the car, did he stay at the job the time you went out? A No, sir.

Q How long did you have to wait for him to finish it? A Five or ten minutes.

Q And you had this appointment at twelve o'clock? A I did.

Q Now, at that time, did Mr. McDonald say anything to you about paying some money to him? A Yes, sir.

Q On the bill that you owed him? A Yes, sir.

Q Did you pay him that money on an occasion after that? A No, sir, not on the 19th.

Q What is that? A No, sir, I did not pay him then, I didn't have it then.

Q You say you did not pay it on the 19th? A No, sir.

Q I asked you if you paid it on some occasion after the 19th? A I did.

Q When was it? A On the 20th.

Q The following day? A Yes, sir.

Q How much did you give him then? A I gave him a hundred dollars and he paid me back $50.

Q So you paid him $50 on it? A Yes, sir.

Q Now, who got into the car with you when the greasing job was finished that morning? A Charlie Mass and my brother.

Q And that brother is Joseph Barone that you have spoken of? A Yes, sir.

Q Where did you go? A Childs' Restaurant, Newark.

Q Did you get your $1,500 there? A I did.

Q Did you retain that $1,500 or not? A I did.

Q Did you pay anything of it out again after getting it? A I did.

Q Who did you pay it to? A I gave Max Silverman $300 the same day.

Q That is, he paid you $1,500 that he owed you, and then he borrowed $300 of it again? A Yes, sir.

Q Who else was at Childs' at that noontime whom you saw there besides Charlie Mass and your brother and Max Silverman who gave you some money, who else was there? A Why, Juliano was there.

Q Big Joe Juliano? A Yes, sir.

Q And where did you go, if any place, after being in Childs' there? A Treat place.

Q Where did you go after that? A We came back to Childs' and got into the car and went to the Packard people.

Q Did you go up to the Packard place? A Yes, sir.

Q Were you in the group of people who saw Ruff's new car? A Yes.



Q Now, do you know the day you got the $1,500 was the same day that Ruff got his new car? A Yes, sir.

Q You left the Packard place, did you, before the car was taken out of there? A I did.

Q Where did you go after that? A Childs' Restaurant on Market street.

Q Downtown? A Yes, sir.

Q You did not wait for the car to be delivered there? A No, sir.

Q Later that day or that night did you see Juliano? A I did.

Q And did you see Ruff? A I did, later at night.

Q At night you saw him? A Yes, sir.

Q Where did you see him that night? A Which one have you reference to?

Q What is that? A Which one do you mean, Ruff or Joe?

Q Well, did you meet one before you saw the other? A I did.

Q Who did you see first? A I saw Joseph Juliano first.

Q Where did you see him? A Down at the dog races.

Q And then did you come home or back from the dog races with him? A With Joe?

Q Yes. A Yes.

Q Where were the dog races held? A Down on Elizabeth avenue.

Q Did you come back into Newark from the dog races? A Yes, sir.

Q Who was with you, Joe Juliano? A Joe Juliano.

Q Do you remember where you went after coming into Newark with Joe Juliano? A Yes, sir.

Q Where? A Childs' Restaurant on Market street.

Q Did you go to any other place with him that you remember? A I did.

Q Where? A To the shore, Long Branch.

Q Who did you go to the shore with? A Big Joe Juliano, Mr. Capozzi and Dot Miller and myself.

Q The four of you went down to the shore? A Yes, sir.

Q Now, when you went to the shore where did you go, what part of the shore? A The Silver Slipper in Long Branch.

Q And how long did you stay there? A Over night.

Q How late was it when you got down there? A Around 2:30 or three o'clock.

Q In the morning? A Yes.

Q And you came back when? A On Tuesday.

Q And on that occasion, when you went in there, were there a number of people in the Silver Slipper? A Yes.

Q Were there any persons at their party except the four of you? A There was two other fellows that were going in.

Q And they did not go with you, though, these two persons? A No.

Q Well, I don't mean who you saw; who was with you; did you see any other table of people there that you recognized? A Yes.

Q Who did you recognize at the other table? A Tony DePhillips and Johnny Shine.

Q And did you see anybody else that you knew in Newark? A Yes, Boscale; he is a singer down there.

Q Well, did you see any detectives from Newark there? A I didn't know them.



Q You didn't know them? A No.

Q But were there a number of other people at the table where you saw Shine and DePhillips there? A Yes.

Q They were with that other party? A Yes.

Q How long after you got there did that other party leave? A About fifteen minutes after we got there.

Q Fifteen minutes after you got there? A Yes.

Q And you say you came back on the following day, and at what time? A We left there about one o'clock, I think.

Q What? A We left there about one.

Q About one o'clock in the afternoon of the 20th? A Yes.

Q And what car did you ride in on that trip to the shore? A Mr. Capozzi's straight-eight Packard.

Q So that during the entire day of July 19th, you have given us your movements as you best remember them? A Yes.

Q You said you never met Boudreau and never went around with the other defendant, young Joe Juliano, is that right? A No, sir.

Q Did you on July 19th, on the morning of that day, or at any time participate in a hold-up? A No, sir.

Q Of the Reid plant? A No, sir.

Q Did you or were you at any time on or near the corner of Mt. Pleasant avenue and Clay street or in a Pierce-Arrow automobile from which and around which the shots were fired on that day? A No, sir.

*Cross examination* by Mr. Bigelow.

Q You say that you saw down at the shore, at the Silver Slipper, a man named Shine? A Yes.

Q Is his correct name John Andrews? A Yes.

Q Alias John Shine? A Yes.

Q And you saw DePhillips down there? A Yes.

Q He is the man who stood up once or twice here? A Yes.

Q Did you see down there Arthur Connor, alias Brownie? A I don't know him.

Q You don't know him? A No.

Mr. Bigelow: Connor, will you stand up?

Q Do you know this man? A No, sir.

Mr. Bigelow: Is your name Arthur Connor?

Voice: Yes.

Q This man Shine and DePhillips, did they sit at a table near you down there? A Yes.

Q The next table to you? A Yes.

Q And they left about fifteen minutes after you arrived? A Yes.

Q Shortly after this, you moved out of Nutley, did you not?

Mr. McGeehan: After what?

Mr. Bigelow: After the 18th and 19th and 20th, the days mentioned in his direct examination.

A No, sir.



Q Didn't you move down to the Hotel Riviera? A No, sir, I moved to the Riviera Hotel in the latter part of September.

Q In September? A I was only down there about a month and a half.

Q A month and a half ending October 16th or 17th? A Yes.

Q That would have taken you down about the first of September? A I don't remember.

Q Now, this house in Nutley where you lived, was that an apartment house or one-family house? A One-family house.

Q What did Charles Mass' family consist of? A They were spending their vacation there.

Q How many were there, Mr. and Mrs. Mass and the two children? A Yes, four.

Q Mr. Charles Mass, was his name Maccucci? A Yes.

Q Charles Maccucci? A Yes.

Q And his wife lived there and their two children? A Yes.

Q Is he in the bootlegging business with you? A No.

Q What is his business? A He is in the real estate.

Q Up in Nutley? A No, sir, in New York; real estate and brokerage; mostly broker.

Q And your family living there in that house in Nutley consisted of yourself, your brother Buck, your brother Buck's wife? A Yes.

Q Your mother? A Yes.

Q Anyone else? A My sister-in-law, she was there.

Q You did not have any brothers living there? A There is another brother Freddie, Freddie Barone and John Barone.

Q Three brothers altogther? A Yes.

Q Any sisters? A Yes, two.

Q About eleven people altogether? A About nine, I think nine people.

Q Well, the four Maccuccis? A Well, at that time there was eleven—there was thirteen at that time.

Q How long did the Maccuccis live there? A Three months.

Q When did they leave? A The last part of August.

Q The latter part of August? A Yes.

Q When did you go down on the 18th? That was a Sunday. A Why, I left in the afternoon sometime.

Q What time did you have dinner at Childs'? A I didn't have no dinner there. I left for Max Silverman's house that afternoon.

Q Didn't you testify on your direct examination that you went to Child's on Market street for dinner? A That was later on in the evening.

Q About what hour? A About eight or nine o'clock. I cannot exactly remember the hour.

Q And you had been at Max Silverman's house during the day? A Yes.

Q And had gone with him to Mr. Shelter's house? A Yes, sir.

Q Did you get out of the car there, if you recall? A What did you say?

Q Did you get out of the car? A I did.

Q Did you go into Mr. Shelter's house? A I went with Mr. McFarland and Max Silverman to Mr. Shelter's house in his Elcar.

Q Mr. McFarland's? A Yes, sir.

Q That is the gentleman that keeps the garage opposite you? A Why, no, sir, he sells Elcars.



Q How long have you know Max Silverman? A Why, a number of years, about two or three, I don't remember.

Q Have you any business dealings with him? A No, sir.

Q Haven't done any bootlegging with him? A No, sir.

Q Sell him any liquor? A No, sir.

Q What was the $1,500 you paid him for? A I loaned it to him.

Q When? A About a week and a half before.

Q You loaned him $1,500? A Yes, sir.

Q Just as an act of friendship? A Yes, sir.

Q And he paid you back this day you met him at Childs'? A Yes, sir.

Q You are sure of that? A Yes, sir.

Q What was the $300 you let him have? A He wanted to pay somebody, he told me he wanted to pay somebody.

Q You are sure that was not a commission on a sale he had made for you? A No, sir.

Q What time did you say you were at Child's that evening? A I did not have no dinner there, I just had coffee there.

Q When did you have coffee there? A That was later in the evening, after I left my house.

Q Nine o'clock? A I don't know just what time it was, it was between eight and nine, something like that.

Q Where did you go after that? A What did you say?

Q Where did you go after you left there? A After I left what, Child's?

Q After you left Child's, where you had a cup of coffee? A Around Treat place.

Q 18 Treat place? A Yes, sir.

Q How long were you there? A A couple of hours.

Q From there where did you go? A We went back to Child's.

Q How long were you at Child's that time? A About an hour or so, I don't remember.

Q Did you have another cup of coffee? A No, sir.

Q What did you have there? A I generally go in there and sit down.

Q Just sat at the table? A Yes, sir.

Q You say you generally go in there and sit down? A I do, yes, sir.

Q Do you sit in the restaurant, or have they some other room where non-eating customers may sit? A Why, sometimes if one of my friends go in there and get a cup of coffee and I have to have coffee also, my friend had coffee.

Q Who did you go with this time? A Charlie Mass and my brother.

Q Did they have something to eat? A No, sir, just coffee.

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

Q Then you went back to Nutley? A Not right then, no, sir.

Q Where did you go then? A I was hanging around Child's.

Q Yes, but when you finally left Child's after staying around there about an hour did you go back to Nutley again? A I did, yes, sir.

Q Were you in your own car? A Yes, sir.

Q Which car is that? A The Cadillac.

Q And you had come down in that car? A Yes, sir.

Q You had been to Max Silverman's in that car? A Yes, sir.



Q And did you and Max go out in his car or in his? A Why, in Mr. McFarland's car, we went, when we went to Mr. Shelter's house.

Q Where did you switch from your car to McFarland's car? A At Max Silverman's house.

Q Where did you leave your car when you went with McFarland? A In front of the house, Max Silverman's house.

Q And then when you came back to Max Silverman's house you got out of Max's car and got into your own? A I did.

Q Mrs. Barone, your mother, has not been in good health for some time, has she? A No, sir.

Q She has been sick off and on? A Yes, sir.

Q It is nothing unusual, unfortunately, for her to be laid up for weeks, is it? A No, sir.

Q You say you left a call with Mrs. Joseph Barone, I think it was, to be awakened in the morning? A Yes, sir.

Q What time did you go to bed? A It was after twelve, I don't exactly know just what time it was.

Q And did she awaken you in the morning? A She did, yes, sir.

Q Were you sleeping with Charlie Mass? A I was.

Q What time did you get up? A Did I get up?

Q What time did you get up? A When I got up it was after ten o'clock.

Q A little after ten? A Yes, sir.

Q Had breakfast? A Yes, sir.

Q And then left the house? A Yes, sir.

Q In your own Cadillac car? A Yes, sir.

Q Who else? A Charlie Mass and my brother.

Q Is that all? A Yes, sir.

Q Wasn't Ambrose along? A No, sir.

Q How long had Ambrose been driving for you? A Several months.

Q How long did he continue driving for you after that? A He still drives for me.

Q Did he actually drive your car for you or did he just clean it? A He actually drives the car for the family and myself, sometimes.

Q Well, has he ever actually driven the car for you while you were in the car? A Yes, sir.

Q He did not do it often, though, did he? A No, sir.

Q But sometimes he drove the Cadillac? A Yes, sir.

Q When did you first see him that morning? A At the garage.

Q When? A Around eleven o'clock.

Q That garage is directly across the street from your house? A Yes, sir.

Q What was he doing when you saw him first? A He was putting grease in the car.

Q Putting grease in the car? A Greasing the car up, yes, sir.

Q Was it in the garage or on the road or where? A In the garage.

Q Whereabouts in the garage? A Across the street, inside.

The Court: Inside?

Witness: Yes, sir.

Q You went in the garage, did you not, with your car, and saw him put the grease in? A Yes, sir.



Q Did you regularly keep your car in that garage? A Yes, sir.

Q You did not park it in back of your own house? A Sometimes I did.

Q But actually kept it in McDonald's garage? A Yes, sir.

Q This is a fairly large garage, as I recall? A Yes, sir.

Q And it would hold twenty-five or thirty cars? A Yes, sir.

Q Whereabouts in the garage was the car that morning? A Why, in the entrance of the garage, right at the entrance, inside of the entrance.

Q Inside of the entrance? A Yes.

Q It was not backed against one of the walls? A No, sir.

Q Had you put your car in that garage when you came up on the night before? A I did.

Q Did you put it into the entrance or did you drive it back into an ordinary place? A No, I just drove it in and left it there.

Q Just drove it in the entrance and left it there? A Yes.

Q Did you see Mr. McDonald at that time? A I did.

Q How long have you known this boy Ambrose? A A number of years, about two or three years.

Q I call him a boy—I am perhaps mistaken—how old is he? A I do not know how old he is.

Q Would you say he is fifteen or twenty-five? A Well, he is over twenty-one; I am quite sure.

Q And you do not know his last name? A No.

Q How much did you pay him? A Well, I used to give him a $10 bill now and then.

Q Just gave him a $10 bill when you felt like it? A Now and then, yes.

Q Well, how often did you feel like it? A Occasionally.

Q No regular wages? A No, sometimes I used to give him $25 a week and sometimes I give him $20.

Q Depending upon how the dog races were? A Yes.

Q And he is still driving for you? A Yes.

Q I forget whether I asked you before, did he live at your house? A Sometimes he used to sleep there, but not all the time. He used to go home.

Q Where did he live? A He lived in Nutley somewhere. I do not just know where he lived.

Q In Nutley somewhere? A Yes.

Q You do not know his address? A I don't.

Q He used to turn up regularly so that you would not have to find him? A No, sir.

Q Now, you testified on your direct examination that you paid Mr. McDonald $50 on the 20th, that you gave him a $100 bill and he gave you back $50? A Yes.

Q About what time of the day was that? A It was in the morning.

Q You did not usually get up before noon? A I didn't pay him exactly myself. I gave it to my brother. My brother paid him. You see, I know my brother paid him, I gave my brother $100.

Q You gave your brother $100? A Yes, and he paid him.

Q Then you do not know actually that you paid him? A I told him to give $50 out of the $100 and to give the other $50 to my mother at home.



Q And your brother told you that he had made the payment? A I gave him the $100 on a Monday night after the dog races. I gave him $100 at the dog races Monday night to give $50 to Mr. McDonald and $50 to mother.

Q And he told you that he had done it? A Yes.

Q And on the strength of that you testified that you gave Mr. McDonald $50 on the 20th, and getting $50 back, is that right? A Yes.

Q Actually you did not give Mr. McDonald a cent. A Well, I am not sure. I gave it to my brother. I did not give it to him myself.

Q You did not actually hand him over $100 and get $50 back? A No.

Q You are just relying on what somebody else told you? A No.

Q Well, weren't you even told that the money had been handed over to him? A Well, my brother told me, yes.

Q And your testimony that you paid him $100 was based on what your brother had told you, isn't that so? A Yes.

Q When you got to the dog races on a Monday night, what hour did you get there? A About eight o'clock.

Q About nine o'clock? A Eight o'clock.

Q Did you stay until the last race was over? A I did.

Q When you said that the dog races were on Elizabeth avenue, you were mistaken? A I do not know if it is on Elizabeth or Frelinghuysen avenue. It is some place down there near Dreamland Park.

Q Well, you went there a good many times? A I did.

Q And you do not know whether they were on Elizabeth avenue or Frelinghuysen avenue? A I think they were on Frelinghuysen avenue.

Q Well, then, you were mistaken when you testified they were on Elizabeth avenue, weren't you? A I must have been, yes.

Q Did you go to Child's after you came back from the dog races? A I did.

Q And there who did you meet? A No one. I met Mr. Capozzi with his car.

Q You met Mr. Capozzi in his car at Child's after you got back from the dog races? A Yes.

Q How long were you at Child's at the time? A About fifteen or twenty minutes.

Q And then started right out for the Silver Slipper? A Yes.

Q Where did you meet Joe that evening? A We were at the dog races and I met him about eight o'clock.

Q You met him at the dog races about eight o'clock? A Eight o'clock.

Q Who was he with when you met him? A I don't know. I think I seen him down there alone at that time.

Q He was down there, and you were down there alone? A Yes.

Q Did you go down in your Cadillac car? A Yes.

Q And drive back in it to Child's? A Yes.

Q And left it on Market street? A I did.

Q And when did you take it away? A I gave it to my brother.

Q Your brother went down to the dog races with you? A No, I found him down there.

Q You found your brother at the dog races? A Yes.

Q Which brother? A Joseph Barone.



Q Did he come back in the car with you? A No.

Q He came back alone? A I did.

Q And did not bring Big Joe back with you? A No.

Q But all three of you met at Child's again? A We did, yes.

Q Did you see them together at the dog races? A I did.

Q Where were they, what part of the racing establishment? A Well, at the race track. I do not just know what part of it.

Q Well, did you see them sitting in the grand stand or hanging around the gate? A He was standing around there.

Q Where? A Near the fence.

Q Is that the outer fence? A Yes.

Q Were they apast the gate, the entrance gate? A Yes.

Q You did not see Big Joe from the time you left the track until you got to Child's? A I seen him before that.

Q I say, after you left the track and until you got to Child's, you did not see him? A No.

Q You are sure of that? A I did not quite understand what you meant.

Q Well, I understand that you saw Big Joe at the track? A I did.

Q And then came out and got in your Cadillac car? A Yes.

Q And Big Joe did not get in your Cadillac car? A No, sir; he had his own car.

Q He had his own car? A He had his own car.

Q And you drove up to Child's and I assume he drove up to Child's? A I met him there. I told him I would see him in Child's restaurant.

Q But you did not see him from the time you left the dog races until you got to Child's? A No, sir.

Q Did you see him get out of his car? A At Child's?

Q Yes. A No, I didn't.

Q Did you see him get out of his car? A At Child's?

Q Yes. A Why, no, I did not.

Q Which side of the street did you park your car on? A On Market street, why, the right-hand side.

Q I wish you would try to speak a little louder. A On the right-hand side of Market street in front of Child's.

The Court: Which restaurant, which Child's restaurant?

Witness: On Market street, 58 Market street.

The Court: Is that near Halsey street or nearer to Broad?

Witness: Near Halsey street.

The Court: That is not 58, is it?

Witness: I think it is.

The Court: 158, isn't it.

Witness: 158.

Q You say that this $1,500 was money that you had loaned Silverman a week or ten days before? A About a week and a half before that.

Q How much was the amount you loaned him? A $1,500 and 40 some odd dollars.

Q And he paid you back $1,500? A Yes, sir.



Q And at the same time you owed McDonald about $112, was it? A One hundred and some odd dollars, I don't know just what it was.

Q When you saw McDonald on the morning of the 19th did he ask you to make a payment on the account? A He did.

Q Did he say the bill had been running too long? A Yes, sir.

Q And that he needed money, I suppose? A Yes, sir.

Q And what did you tell him? A I told him I would give it to him tomorrow, maybe.

Q Did you tell him you would give it to him as soon as your debtors squared up with you, Silverman? A No, sir, I didn't tell him that.

Q But you told him you would pay him tomorrow? A Yes, sir.

Q How long before that had you made a payment? A I don't remember.

Q Three or four months? A No, it is not that long.

Q Three or four weeks? A I don't remember.

Q Well, was it less than three weeks would you say? A I just don't remember.

*Re-direct examination* by Mr. McGeehan.

Q Was there any visit to your house on the morning that you left there on the 19th? A There was, yes.

Q Who was it? A My uncle.

Q What uncle? A Anthony Caffozzi.

*Re-cross examination* by Mr. Bigelow.

Q Did you see Anthony Caffozzi? A Yes, sir.

*Joseph Barone, direct.*

Q How do you spell Caffozzi? A I don't know.

Q When did you meet him? A He came in while I was eating breakfast at the table.

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JOSEPH BARONE, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Barone, you are a brother of Chris Barone who just left the stand? A Yes, sir.

Q And your name is Joseph Barone? A Yes, it is.

Q What is your business? A Well, I am a restaurant owner and boxer.

Q What is that? A Restaurant owner and boxer.

Q You have something to do with your mother's restaurant at Nutley? A I do.

Q But you say you are also a boxer? A Yes, sir.

Q That is you are a professional pugilist? A Yes, sir.

Q And you are still that and in training as such? A Well, I am not in training now.

Q But you fight right along, do you not? A I do.

Q When did you fight last? A Around August.

Q A couple of months ago? A Yes, sir.

Q What name do you fight under? A Buck Josephs.

Q And a good many of your friends call you Buck Josephs, do they not? A Yes, sir.



*Joseph Barone, direct.*

Q And I guess your own family call you that? A They do.

Q How old are you? A I am twenty-four.

Q You are a brother of the defendant you said? A I am.

Q You have also been driving Mr. Corrigan around in an investigation of this case? A I have.

Q Barone, you are acquainted with some of the other defendants, are you not? A I am.

Q Who do you know of the defendants? A Well, I know Ruff and Juliano, Big Joe.

Q Are you acquainted with young Joe Juliano? A Well, no, not much.

Q You know who he is? A What is that?

Q You know him to see? A Yes, sir.

Q Do you say "Hello" to him? A No, I never saw him much.

Q But did you see Capozzi much? A I did.

Q And did you see Big Joe Juliano much? A I did.

Q Did your brother go around with them? A He did.

Q Did you go to the dog races in the month of July, 1926? A Yes, sir.

Q Did you go often? A Every night.

Q Did Big Joe, and Capozzi and your brother Chris go frequently, too? A They did.

Q Do you remember a time when your mother was ill this summer? A I do.

Q Your mother's health is not good, is it, as the prosecutor stated? A No, sir.

Q But during the summer she was in bed more than once at a stretch? A No, that was the only time she was sick.

Q The only time she was in bed? A In bed that summer.

Q And was she in bed continuously for some length of time? A Oh, about five or six days.

Q By the way, did your family go down to the shore? A They did.

Q When did they go to the shore? A I think they went down on the 22nd, on a Thursday.

Q Now, was your mother able to go down to the shore at that time? A Well, she was feeling better at that time, it was about a day or two when she got up.

Q She had been up a day or two at that time? A Yes, sir.

Q But she was still sick, was she sick during the Italian holiday? A She was.

Q During the illness of your mother and before your family went down to the shore, do you remember any occasion when you and Mass and your brother Chris got into a car in the morning? A I do.

Q Do you know what was being done to that car when you got in on that particular morning? A Why, it needed grease and oil and polished.

Q Do you know now what date that was? A Now I do.

Q And what date was it? A July 19th.

Q What time did you get up that morning? A Why, I got up around ten or after ten.

Q Were you a party to the appointment in Child's or not? A I was.

Q And did you go down to Child's with them? A I did.

Q What time did you leave the house? A Well, we left the house around eleven or a little after eleven.

Q Eleven or a little after? A Yes.



Q You are sure of the exact time? A I am not sure of the exact time.

Q And you say that the car was being greased that day. Is there anything that makes you remember that? A Well, the car had never been greased very often.

Q Well, was it ready when you got out of the house? A It was not.

Q Who got into that car? A My brother, Chris Barone and Charles Maccucci.

Q And where did you go? A Why, we drove down to Child's.

Q That is the Child's on Market street? A 158 Market street.

Q When you got down to Child's, who did you meet there? Or who came there while you were there, which ever it was? A Why, we got there just a little before twelve and then Big Joe Juliano walked in.

Q Big Joe Juliano walked in? A Yes.

Q After you had gone into the place? A Yes.

Q Who else was there while you were there around Childs' at noontime? A Well, about ten minutes after twelve Max Silverman walked in.

Q Did you see any money paid by Silverman to your brother? A Well, he called my brother aside and I seen him take out a roll of money.

Q Did you know that he owed your brother around $1,500? A I did.

Q Did you go up to the Packard place that day? A I did.

Q And are you sure that the day you went up to the Packard place was the day that you came down from your house with your brother Chris? A Positive.

Q What did you see at that Packard place? A Well, I saw a gray straight-eight Packard.

Q And who was buying that car? A Ruff was buying it.

Q And was Ruff with you when you were up at the Packard place? A Yes.

Q Did you go on that ride to Belleville or not? A No, I didn't.

Q Did you leave before the car was delivered or after? A Before it was delivered.

Q By the way, who drove—whose car did you go up in to the Packard place? A Why, Eddie Kelly, I believe, drove the car.

Q Whose car was it? A Joe Juliano's car.

Q But Kelly drove it? A Yes.

Q And seeing the Packard you came on downtown? A Yes.

Q And did you go to the shore that night? A No, I didn't.

Q Now, when Chris went down to the shore—Chris Barone—what did he do with regard to his car? A Why, he gave me the car.

Q You drove it? A Yes.

Q Do you remember anyone going to yur house that day? A What is that?

Q Do you remember anyone coming to your house while your mother was sick that day? A I do.

Q Who was it? A My uncle, Anthony Caffozzi.

Q Where does he live? A Out in Bensonhurst, Brooklyn.

*Cross examination* by Mr. Fisch.

Q What time did your uncle get there? A Why, he must have gotten there around 10:30 or a quarter to eleven.

Q Did he come alone? A Alone.



Q And your mother went to the shore on the 22nd? A Yes.

Q And she had been up a day or two before that, you say? A Before?

Q Is that right? A Right.

Q And had she been up two or three days before that? A No.

Q Just a day or two before; you are sure about that? A Positive.

Q And you did not take the car to be oiled and greased, did you? A No.

Q You say the car was polished, too, that morning? A Yes.

Q And did you talk with Mr. McDonald? A I did not talk with Mr. McDonald, no, sir.

Q Did he speak to you? A He spoke out of the window when we brought the car in.

Q What is that? A We called him up and he got up and looked out of the window. It was around one or two in the morning when we got home.

Q You called him through the window? A We blew the horn.

Q You blew the horn and woke Mr. McDonald up? A Yes.

Q What time was that? A Around one or two in the morning.

Q What morning was that? A Monday morning.

Q And that is the way you woke Mr. McDonald up, you blew the horn and he come down? A He didn't come down.

Q Why did you wake him up? A Well, we were putting the car in the garage.

Q Well, how did you get the car in the garage? A Just pushed the door open and put it in.

Q Well, wasn't the door open? A No.

Q Did he open the door? A No. The door was just shut and we pulled it over.

Q Well, why did you wake him up? A Well, he was always up at that time listening to the radio.

Q So you just blew your horn at one or two o'clock in the morning to wake him up, is that right? A Right.

Q Although you knew you would be able to get in the garage without waking him up, is that righ? A Yes.

Q So he was not listening to the radio?

Mr. McGeehan: I object. How would the witness know.

The Court: Well, it is taking his own answer.

Q You woke him up? A Well, I do not know whether he was listening to the radio or not.

Q You said you woke him up, that was correct, was it? A Yes, sir.

Q The garage door was open? A It was not open.

Q Well, it was not locked? A Well, it was not locked, that's it, but it wasn't open.

Q And did you come in before by just pushing the door aside? A I have.

Q And that morning when the car was being greased did Mr. McDonald speak to you? A What is that, what morning are you talking about?

Q The morning that the car was being greased did Mr. McDonald speak to you? A Yes, sir.



Q He spoke to you, did he? A Yes, sir.

Q You spoke to him? A Yes, sir.

Q Did he ask you about the payment of some money? A No, sir.

Q What did you speak to him about? A I said, "How is it, Mac?" And he said, "All right?" That's all.

Q That's all you spoke to him about? A That's all.

Q Did anybody else speak to him there? A What did you say?

Q Well, while Ambrose was greasing the car he was there that morning and did anybody else speak to him? A Why, my brother said "Hello Mac," that's all.

Q Did Mr. McDonald say anything else to anybody else outside of to you? A I heard him ask for money.

Q Are you sure about that? A Positive.

Q What makes you say you are positive of that? A Because he says, "Chris, I would like to have some money, I am short."

Q Did you ever hear him say that before? A I have.

Q How many times did you hear him say that before? A I heard him say that once before.

Q How many times before this time? A Why, this was a month or two before that time.

Q So that a month or two before that you had asked your brother for the money? A Yes, sir.

Q Is that right? A Yes, sir.

Q Do you know whether your brother had paid him any money between the time that car was greased on that morning we are talking about and this month or two before when he had asked him for money? A He generally paid him every month.

*Joseph Barone, cross.*

Q Well, do you know whether he paid him any money between those times? A I do not.

Q You do not? A No, sir.

Q You say he generally paid him every month? A Yes, sir.

Q Now, you went to the dog races every night, didn't you? A Yes, sir.

Q So it was not any unusual occurrence for you to go to the dog races, was it? A No, sir.

Q Nothing particular to call to your mind, to recall to your memory this particular night? A What is that?

Q There was nothing in particular to call your attention to this particular night? A No, not particularly.

Q What is that? A No, sir.

Q And when did your brother-in-law come to live at your house? A My brother-in-law?

Q Maccucci? A He is not my brother-in-law. He came there around June.

Q He is not your brother-in-law? A He is not.

Q Related to you, is he? A No, sir.

Q No relation of yours at all? A No, sir, he is married to my cousin, that's all I know.

Q He came there around June? A Around June.

Q In the early part of June or the latter part? A I don't know, I can't remember just now.

Q Well, was it near Decoration Day? A I can't say.

Q How long did he stay? A He stayed there for three months.

Q Where did he live before he came to your house? A Why, he lives out in Ozone Park.

Q New York? A No, Long Island, Richmond Hill, Long Island.



*Joseph Barone, cross.*

Q How many rooms are there in your house? A There is five.

Q Five rooms altogether? A Five rooms and bath.

Q Five rooms and bath? A Yes, sir.

Q And there is a kitchen? A No, there is no kitchen upstairs.

Q You have no kitchen? A No, sir, not upstairs, downstairs, there is.

Q Well, how many rooms have you got? A Downstairs there is a restaurant—

Q What is that? A Two halls, there is a restaurant.

Q There is a restaurant downstairs? A Yes, sir.

Q And a dance hall? A And a dance hall, yes, sir.

Q And you lived up above that? A We lived upstairs.

Q How many stories are there to this building? A Well, there is just the first floor and upstairs. That is all.

Q And there are five rooms on the second floor? A Yes.

Q And is there a parlor there? A Yes.

Q And is there a dining room there? A No.

Q No dining room? A No.

Q A kitchen there? A No.

Q Well, what other rooms are there besides the parlor? A Well, next to the parlor is my bedroom.

Q Your bedroom? A Yes, and on the other side of the hall there is three bedrooms and then in the back is the bathroom.

Q So there are four bedrooms altogether? A Yes.

Q And who occupied your bedroom with you? A My wife and I.

Q Just your wife and you? A Nobody else in that room, no.

Q Then I suppose your mother had a room by herself. A No, she slept with the two daughters and my sister Overa and Maggie.

Q Your two sisters? A Yes.

Q Even though she was sick? A Yes.

Q She occupied the same bed with them? A Yes.

Q And then the other bedroom? A The bedroom next to us was Mrs. Maccucci's with her two children and the following bedroom there was two double beds in that room, my brother and Mr. Mass slept in one bed and John Maccucci slept in the other.

Q Where did Mrs. Maccucci's children sleep? A With their mother.

Q In the same room? A The same room with their mother.

Q And you say you do not know just the date when they got there? A No.

Q And did he go to business every day from your house? A Well, not exactly every day.

Q What? A Not every day.

Q Well, what was he doing while he was staying at your house? A Well, he would go down with us to Newark in the morning.

Q And stay with you all day? A No, not all day.

Q Well, how much of the day? A Well, some days he would go to New York and take care of his business.

Q But he would not go to New York every day? A Not every day. Some days he would stay in Newark.

Q Some days he would just hang around with you, is that it? A Yes.



Q He was in the real estate business? A Well, he was in the vanilla business and brokerage office.

Q And he was not in the real estate business? A Well, I do not know if he done any real estate.

Q Did he have a place of business in Newark? A No, sir.

Q Where was his place of business? A Well, he has a factory on Lafayette street, New York.

Q Now, how many days a week would he go downtown with you? A Well, every time he would go home to sleep.

Q What is that? A Every time he would go home with us; I cannot figure out how many days.

Q Well, how many days a week would he go downtown with you? A That I do not know; I can't remember.

Q Often? A Well, I never kept tabs on him.

Q Well, would he go often or seldom? A Often.

Q So it would not be anything unusual for him to go downtown with you, would it? A No.

Q And both of these automobiles, in whose name were those automobiles? A One is in my name, and the other one is in my mother's name.

Q One in your name? A Yes.

Q And one is in your mother's name? A Yes.

Q Now, in whose name was the automobile you were having greased that day? A My name.

Q And the bill was charged to Chris? A Chris Barone.

Q Why was that?

Mr. McGeehan: I object to that. How can he tell?

The Court: Well, he might know without knowing the amount.

Mr. McGeehan: I object to it because it calls for a conclusion on the part of the witness pure and simple.

The Court: Allow the question.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q (Question read.) A Well, I owned the car. The car was in my name. He owned the car, but it was in my name.

Q Oh, he owned the car and it was in your name? A Yes.

Q And that was the reason the bill was charged to him?

Mr. McGeehan: I object to that as calling for a conclusion.

The Court: No. He knows; he can tell.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.



Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

A Yes.

Q You used to drive that car around quite a bit? A I did.

Q And you testified in your direct examination that you drove Mr. Corrigan, defendant's counsel, around in the investigation of this case? A Yes, I drove him around in this case.

Q And did you drive anybody else around in the car in the investigation of this case? A No.

Q Did you drive Mr. Silverman around in the investigation of this case? A No.

Q Did he help you in the investigation of this case? A No.

Q And you have been living home all the time? A Well, some nights I go down to the baths.

Q Except when you went to the baths you lived home? A Yes.

Q That was Huber's baths? A Yes.

Q And were you home last night? A No.

Mr. McGeehan: I object.

The Court: Sustain the objection.

Q And have you been going around with Mr. Silverman since this case was started?

Mr. McGeehan: Objected to as not relevant or cross examination.

The Court: Sustain the objection.

Q Did you speak to Mr. McDonald about this case? A I did not.

Q You did not speak to him at all about it? A No, sir.

Q You did not try to recall to his mind that you were at his place on the morning of July 19th? A No.

Q Didn't try to recall the fact that he spoke to your brother and asked your brother for some money? A No, sir.

Q And didn't try to recall to his mind the fact that the car was oiled and greased that day? A He knew it by his bill.

Q Did you speak to him about it? A No, sir.

Q You haven't spoken to him about it at all? A No, sir.

Q And you were downtown in the morning, you say? A Yes.

Q And who did you meet? A Who did I meet?

Q Yes. A Well, we went in the restaurant, in Child's restaurant first.

Q Who did you meet first? A When we went in there we didn't meet nobody, we were the first there.

Q Well, who was the first one that you met that you knew? A Juliano.

Q You mean Big Joe Juliano? A Yes, sir.

Q You met him, did you? A He came in about two minutes after we got there.

Q Did you have any business with him? A No, sir.

Q You say that you were in the restaurant business? A I was.

Q And are you still in the restaurant business? A Well, right now business is slow so we closed it.

Q Is that restaurant closed now? A Yes, sir.



Q How long has it been closed? A About a month or two.

Q A month or two or three? A Or two, until now it is closed two months ago.

Q And it might be three months ago? A No, sir.

Q And it is not closed that long? A No, sir.

Q Then the only business that you have is the fighting business, is that right? A Yes, sir.

Q Now, when did you get back from the dog races on that Monday night? A Well, it was around eleven o'clock.

Q Where were you around eleven o'clock? A Well, I arrived at Child's.

Q With whom? A Myself.

Q Alone? A Myself and another fellow by the name of Carmen.

Q Carmen what? A I don't know his last name.

Q How did you get to Child's? A Took a taxi.

Q You took a taxi? A Yes, sir.

Q Carmen, is that the first name or last name? A That is his first name.

Q That is the man's first name? A Yes, sir.

Q And you took a taxi from the dog races to Child's? A Yes, sir.

Q Had you seen your brother at the dog races? A I did.

Q Did he have his car there? A Well, I don't know that, I don't know whether he did or not.

Q Did you see Big Joe there? A Yes, sir.

Q Did he have his car there? A I guess he did.

Q Why didn't you go over to Child's with your brother or with Big Joe? A Well, I had other business to do.

Q You had other business? A Yes, sir.

Q What other business did you have? A Well, talking over the dog races about something.

Q Where? A Where?

Q Yes. A Over in Guy's saloon, there.

Q What? A In Guy's cafe.

Q In Guy's cafe? A Yes, sir.

Q Where is that? A Washington street.

Q Did you go to Washington street before you went to Child's? A Before I went to Child's?

Q Yes. A Yes, sir.

Q So you did not go direct from the dog races to Child's? A No, sir.

Q Well, who did you meet in the saloon? A Well, I cannot remember just now who I met there.

Q Whom did you do business with there? A Some fellow.

Q What is his name? A Eddie.

Q Eddie what? A I don't know his last name.

Q Well, what business did you have with him? A Well, referring to the dog races.

Q And you did not know his last name? A No, sir.

Q You went there with Carmen? A No, sir. Carmen went down to Child's and I dropped in the saloon there.

Q Well, now, you had a taxi, didn't you? A Yes, sir.

Q And who got out of the taxi first? A I did.



Q You got out of the taxi first and you went into the saloon? A Yes, sir.

Q And when you came outside was the taxi waiting for you? A No, I paid the taxi before I got out; I paid the taxi and went into the saloon.

Q And did Carmen stay in the taxi? A I guess he did.

Q Did you make an appointment to meet him later? A No, sir.

Q Did you see him later? A No, sir.

Q You did not see him later? A No, sir.

Q Well, did you see Big Joe or your brother before you left the dog races? A I did; I seen them down there; I said, "Hello;" that's all.

Q Just "Hello" and that was all? A Talking about the dog races.

Q Did you make an appointment to meet them at Child's? A No, sir.

Q Then, you were surprised when you got to Child's to see them there, weren't you? A I was not surprised.

Q You were not surprised? A No, sir.

Q You hadn't made any appointment, had you? A No, sir.

Q And you did not go to the dog races with anybody else then; you went alone; is that right? A Yes, sir.

Q And did you stay at the dog races with your brother; you saw your brother there? A Well, I saw my brother; I saw him about a half an hour after I got there.

Q Well, who was with him? A Well, I cannot remember who was with him. I remember Joe was there at the time.

Q Big Joe? A Yes.

Q What time had you gotten downtown that evening? A What evening?

Q That Monday evening before you went to the dog races? A Before I went to the dog races?

Q Yes. A Monday evening?

Q Yes. A I got downtown around twelve o'clock Monday morning.

Q What is that? A I got down there around twelve o'clock Monday morning.

Q You got down at twelve o'clock Monday morning? A Yes.

Q And you stayed down from twelve o'clock Monday morning? A Yes.

Q What did you do in the afternoon? A I was around the gymnasium.

Q What gymnasium? A Patsy Kline's.

Q How long did you stay there? A Well, just got there and seen who was there and walked down again.

Q Who did you go with? A Myself.

Q Where did you go from there? A What do you mean?

Q Where did you go from there? A Before twelve o'clock?

The Court: No, from the gymnasium.

A To Child's.

Q What time did you leave Child's to go to the gymnasium? A What time?

Q Yes. A It was around half-past two or three o'clock.

Q That is the time you left Child's to go to the gymnasium? A Yes.

Q What time did you get back to Child's? A What time did I get back to Child's?

Q You understand my questions? A Yes.

Q Well, please do not repeat. A About ten minutes after; after I left the gynasium.



Q Ten minutes later you were back to Child's again? A Yes.

Q So that you had only left Child's about ten minutes? A Yes.

Q Now, when you left Child's to go to the gymnasium, who did you leave in the place? A My brother—just Chris.

Q Just your brother Chris? A Yes.

Q And when you got back there ten minutes later who was there? A Nobody.

Q He was gone, was he? A Yes.

Q And that was about what time when you left him there? A About 2:30 or 3:00.

Q And had you been there with him from 12:00 o'clock on until 2:30 or 3:00? A I had.

Q Both of you had been there up to that time? A Yes.

Q And then you went to the gymnasium and stayed there about ten minutes and came back? A Yes.

Q And then Chris had gone? A He was not in front of Child's at that time.

Q Well, you did not see him? A No.

Q Although you had left him there ten minutes sooner? A Yes.

Q And how long did you stay there at Child's? A We just walked around and I walked over to Treat Place.

Q And you only stayed there a minute or so? A A minute or so.

Q And you went over to what number Treat Place? A 18.

Q That is Klein's place? A Yes.

Q Did you see anybody there you knew? A A lot of fellows.

Q Who? A I do not remember the names.

Q Well, how long did you stay at Horse Kline's? A I was playing rum there.

*Joseph Barone, cross.*

Q What is that? A I was playing cards there.

Q How long did you stay there? A About an hour or so; an hour or two.

Q Where did you go from there? A From there I went to Child's to have my supper.

Q What time did you get to Child's? A 5:30 to 6:00.

Q Did you meet anybody there that you knew? A Well, I do not remember.

Q How long did you stay there? A I do not remember.

Q Well, what time did you leave there? A I cannot say; I cannot recall that.

Q Where did you go from there? A I know around half-past seven or eight o'clock I went down to the dog races.

Q Well, did you go to the dog races right from Child's? A No.

Q Well, where did you go to the dog races from? A I cannot recall where I went after that.

Q Where did you go to the dog races from? A Where did I go from?

Q Yes. A Child's.

Q Well, I thought you said you did not know where you went from? A I know I hang around there a lot.

Q What is that? A I hang around there a lot.

Q Well, now, what time did you go to the dog races? A A quarter to eight.

Q And you went there from Child's? A Yes.

Q So that you were in Child's from half-past five or six o'clock until quarter to eight? A Yes.

Q Did you meet anybody there that you knew? A I do not recall.



*Joseph Barone, re-direct.*

Q You do not recall? A No.

Q And then you went to the dog races alone, did you? A Yes.

Q And how did you go to the dog races? A By cab.

Q Taxicab? A Yes.

Q You did not have any appointment to meet anybody? A No.

Q So that you were practically all day in Child's, weren't you, is that right? A Yes.

*Re-direct examination* by Mr. McGeehan.

Q Now, you say that you had some business that made you stop off in Guy's—is that the name of the saloon? A Yes.

Q And some business about the dog races? A About the dog races.

Q That was after the races were over? A Yes.

Q And I suppose you were interested in each race that was run down there? A I was.

Q Well, I understood you to say—was it the 19th that you were answering a lot of questions about just before Mr. Fisch discontinued examining you—was that the night of the 19th you went to the dog races? A Yes.

Q Now, was that the same day you went up to the Packard place? A Yes.

Q And what time did you go up to the Packard place? A Well, it was around a quarter to one or one o'clock.

Q And if you said in answer to one of these questions that were put to you that you had been there from twelve o'clock on, meaning Child's, did you mean to say that you were in Child's from one o'clock on up until late afternoon?

Mr. Fisch: I object.

The Court: If he wants to change his testimony he can.

Mr. McGeehan: I do not want him to change his testimony. I do not know whether he understood the question.

Mr. McGeehan: I did not ask him whether he wants to change his testimony. I asked him whether he intended to state that.

The Court: Well, Mr. McGeehan, if he made one statement and you want to direct his testimony to another fact and he wants to change it, he is changing his testimony.

Q Had you been in Child's from twelve o'clock on that afternoon? A I was there.

Q I don't mean were you there a number of times; I mean were you there continuously from noontime? A I was until 2:30; first I went up to the Packard people and then we came back.

Q Then you went to Child's? A Yes, sir; then we came back.

*Re-cross examination* by Mr. Fisch.

Q You forgot all about that Packard incident when I was examining you, didn't you? A I didn't understand your question.

Q What was there about it that you did not understand? A The way you asked me that question was, "Were you in Child's from twelve o'clock on?"

Q You did not understand what I meant; is that it? A No, sir.

Q Well, you understand what it meant, didn't you, when I said "Were you there from twelve



o'clock until half-past two or three, up until the time you went to the gymnasium?" Did you understand that?

Mr. McGeehan: I object; he didn't testify to that.

The Court: What did he testify?

Mr. McGeehan: He was asked was he in Child's from twelve o'clock on that day until five or six or something like that. That is my recollection and that is what I was questioning him about.

(Last question read.)

A I did not.

The Court: You did not understand that?

Witness: No, sir.

Q What was there about that that you did not understand? A Repeat that over again.

(Question read.)

A I did not understand that question. I didn't hang around there until from 12:00 to 2:30.

Mr. McGeehan: What is that? Speak out so we will all hear you.

Witness: I was not around there from 12:00 until 2:30.

Q Will you please answer my question. What was there about that question that you did not understand?

Mr. McGeehan: I don't think that is a fair question. He said he didn't understand

the question and I don't think anyone can go beyond that.

The Court: I will allow that.

Mr. McGeehan: He did not understand the question himself.

The Court: To me it is a simple question and to you it is a simple question. We want to know why he did not understand it.

Witness: I cannot understand that question.

The Court: Is that your best answer—you cannot understand?

Witness: Yes, sir.

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MARTIN McGUINNESS, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. McGuinness, where do you live? A 41 Broad.

Q Have you a store there? A Not at that address.

Q Where have you a store? A At 21 and 23 Broad street.

Q Is that near the corner of Clay and Broad? A No, sir, it is between Harvey and Oriental, in the middle of the block.

Q Do you know the witness Boudreau in this case? A I do.

Q Did he ever come into your store? A He did.

Q Were you here while Boudreau testified in this case or not? A I was.



Q And are you the Mr. McGuinness that occupies the store on Broad street? A Yes, sir.

Q By the way, you were subpoenaed by the State, weren't you? A Yes, sir.

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

Q Did Boudreau ever come into your store at times? A Oh, yes, sir.

Q When did he come in there, as far as you can remember? A Well, mostly at nighttime, or in the afternoon; him and his wife came in for ice cream and soda and sometimes bread and small items like that.

Q In the afternoon or night when he came there was your wife there? A Yes, sir.

Q Do you remember his ever coming into your store as early as around seven or half-past seven o'clock in the morning or eight o'clock? A No, I wouldn't say I saw him around there nor would I say I did not.

Q You did not—

The Court: Just a moment. He said he wouldn't say he saw him around there nor would he say he did not.

Q Have you any recollection of ever seeing him there at any time that early in the morning? Do you remember his ever being there at that time? A What particular time do you want me to say?

Q Seven or half-past seven in the morning? A Well, I would not say that particular time. I have saw him several times a little later in the morning.

Q Did you ever, as far as you can remember, see Boudreau there at seven or half-past seven in the morning that you remember? A I cannot recall that.

Q Now, you heard him testify that he went there on the 19th of July and that you and your wife were there and that he talked to both of you; did you? A Yes, I heard him testify.

Q Was your wife ever there at half-past seven or eight o'clock in the morning?

Mr. Fisch: I object to that.

The Court: Sustain the objection.

Q Was your wife in the store on the 19th of July at seven or half-past seven in the morning? A Not that I can remember.

Q Sir? A Not that I can remember.

Q And do you remember being there any morning in July at that hour in the morning? A Well, maybe at times she might come to relieve me for breakfast and that would be between seven and eight, and that particular hour is a very busy hour.

Q Does your wife ever come there except in the afternoon or evening? A Very rarely in the morning.

Q And can you remember any occasion at all when your wife was ever there at seven or seven-thirty in the morning? A I cannot recall any particular date.

Q No, or any date without knowing what particular date it was. A No particular day that I can recall.

Q Do you remember whether she ever came there that early? A Oh, there were exceptions; possibly I might have a cold and she would come up there and tend the store.

Q Did you have a cold in July? A That I cannot recall, either.



Q Have you any recollection at all of his being in your store in the company of you and your wife at seven or half-past seven o'clock in the morning of July 19th? A I cannot recall that.

The Court: Was Boudreau's testimony that he was there at seven? I thought he got up at 7:45.

Mr. McGeehan: No. He testified he got up around seven and took, I believe, twenty minutes to go down to that place. He said he had an appointment at precise—I don't know what time the appointment was, but he went down around that time.

*Cross examination* by Mr. Fisch.

Q Do I understand your testimony correctly when you say that you do not recall whether he was there or not? A That is correct.

Q And you do not recall whether or not your wife was in the store that morning; you have no recollection of it at all? A No.

Q You have seen him around there several times? A Yes.

Q You do not know whether this was one of the mornings you saw him there or not? A No; I cannot recall any particular morning.

The Court: What did you say about your wife relieving you for breakfast sometimes?

Witness: Occasionally she might come and open the store, but very rarely.

The Court: No, but you said something about breakfast.

Witness: Well, the boy works for me in that store, and if my wife is not around or

up out of bed at that time and she works late, possibly the boy comes around and opens up the store for me, but, as a rule, I was always there myself every morning at 6:30.

The Court: Yo said something about your wife relieving you for breakfast.

Witness: Well, on occasions, yes.

The Court: What hour would that be?

Witness: Well, that would be between the hour of seven and eight o'clock.

*Re-direct examination* by Mr. McGeehan.

Q And that, you said, in answer to the Court, was on rare occasions? A Yes.

Q By that you mean very seldom? A Very seldom.

Q And while she relieved you for breakfast, she would be there before, too? A Yes.

Q So that you and your wife would be there at the same time? A Very rarely. We would be just talking on business sometimes.

*Re-cross examination* by Mr. Fisch.

Q That was the busy hour, between seven and eight? A Yes.

Q A lot of people coming in and going out of the store? A Yes.

Q And of course you would both be there a minute or two when your wife would come in to relieve you? A Yes.

Q And you would be there when your wife came back from breakfast? A Yes.

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CHARLES A. MAZZUCCO, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q Where do you live? A Richmond Hill, Long Island, 1643 Ninety-seventh street.

Q And where is your place of business? A 237 Lafayette street, New York City.

Q What business are you engaged in there? A Manufacturing of bakers' supplies and flavoring extracts.

Q How many people did you employ in your place there? A Oh, around twenty, I would say.

Q What is the name of the company? A Burton's Vanilla.

Q You manufacture Burton's Vanilla? A Yes.

Q How long has Burton's Vanilla been manufactured?

Mr. Fisch: I object.

A Fifty-five years.

The Court: How long have you been manufacturing it?

Witness: Two years.

Q It has been manufactured, you say, for fifty-five years? A Yes.

The Court: That at most is hearsay. If he himself has been doing it for two years.

Mr. McGeehan: Well, if he bought the company that manufactured it, the records would show.

The Court: That would not be evidential.

Q What is the name of the company? A W. Burton and Company.

Q And how long has that company been in existence? A Fifty-five years.

Mr. Fisch: I object.

The Court: Sustain the objection.

Q You have been interested in Burton and Company for two years; is that right? A Yes.

Q And that is the firm that employs these twenty odd persons? A Yes, sir.

Q What is your position with the company? A Vice-president and general manager.

Q Do you own real estate or deal in real estate?

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

The Court: What is it, does he own any real estate?

Mr. McGeehan: I asked him whether he owns or deals in real estate?

The Court: It is a double question. Objection sustained.

Q Do you deal in real estate? A Yes, sir.

Q Are you engaged in any other business besides selling and buying real estate and the vanilla business? A Yes, sir.

Q What else? A I am financially interested in a security company.

Q What security company? A Kemp & Company, 50 Broad street, New York City.

Q Broad street downtown, is that? A Yes, sir.

Q Have you an interest in any garage? A Yes, sir.



Q What garage? A Waldo's garage, 98th street and Liberty avenue, Richmond Hill.

Q Is that a large garage? A Yes, sir.

Q How large a garage is that? A Oh, a square block.

Q And what is your connection with that garage? A I own it.

Q What is the name of that garage? A Waldo's garage.

Q During the summer of 1922 did you live with the Barone family at Nutley? A Yes, sir.

Q Are you married to a relative of the Barones? A Yes, sir.

Q How many months did you live with them? A Why, in the neighborhood of three months and a half.

Q By the way, are you called Charlie Mass for short? A Yes, sir.

Q Your name is Mazzucco? A Yes, sir.

Q During the time you lived up there who else lived in the house with you? A Why, the entire Barone household.

Q How about your household? A My missus and my two children.

Q How old are your children? A I got a boy five years old and a little girl three old.

Q And did you come downtown with the Barone boys frequently? A Yes, I did.

Q Do you remember whether you were living at that house in the month of July? A Yes.

Q Did you move from there anywhere else around the 1st of August? A No, sir.

Q Well, did you go anywhere with the Barones around the 1st of August? A Why, I would either come into the City of Newark or stay up in Nutley.

Q Did you go on your vacation at all with them that summer? A No, sir.

Q You did not go down the shore? A No, sir.

Q Will you tell me whether you have ever been across the street to McDonald's garage near to the Barone house? A Yes, sir; in my three months' stay there I have been over to McDonald's about three times.

Q And have you a recollection of going downtown with the Barone brothers, Christopher and Joseph, on the 19th of July? A I have.

Q Was there anything that you saw being done to the car on that particular day? A Well, Ambrose was just about cleaning it up after getting through working with it.

Q Ambrose was working on it? A Yes, sir.

Q And did you know what Ambrose was doing on it or not? A Why, no; not until after I heard in this court.

Q But at that time you did not know what particular work he was doing on it; is that right? A No, sir.

Q Now, do you know what time—by the way, have you heard the testimony of Mr. McDonald as to the date? A Yes, sir.

Q And have you any means of remembering what date that was yourself? A Yes, sir.

Q What makes you remember that? A Why, Mr. Juliano, Joseph Juliano, borrowed, indirectly, from me a thousand dollar bill, one thousand dollars.

Q Then, that was the day that Joseph Juliano borrowed a thousand dollars from you? A Yes, sir.

Q And where was that thousand dollars borrowed from you? A Child's restaurant.

Q What time were you at Child's restaurant that day? A Why, shortly before the noon hour.



Q And who did you go down to Child's with? A Buck Joseph and Chris Barone.

Q Where did you go from to Child's? A Beg pardon?

Q Before you got to Child's where had you been—where did you go to from Child's? A Why, from McDonald's garage.

Q And you say it was around noontime or just before noon when you got there? A Yes, sir.

Q Do you remember who else was there at that time? A Why, there was no one there, but shortly after Joe Juliano arrived.

Q That is the man you loaned the money to? A Yes, sir.

Q And you had an appointment to meet him there? A Yes, sir.

Q Do you know in what form you gave him the thousand dollars? A A thousand dollar goldback.

*Cross examination* by Mr. Fisch.

Q Do you own an automobile? A I do.

Q What kind of an automobile do you own? A A Lincoln.

Q Did you have that in Jersey with you? A I did in the early part of my stay here and I was in an accident.

Q What time did you get to or come to live in the Barone household? A The very early part of June.

Q Near Decoration Day, was it? A Quite.

Q And how long did you stay there? A I think the first and second week in September.

Q So you were there practically all of June, all of July and all of August to the first or second week in September? A About, yes, sir.

Q About three and a half months? A Yes, sir.

Q And you and your wife and two children were living in one room there? A No, sir, my wife and two children were living in one room and I was staying with Chris Barone.

Q Then your wife and two children slept in one room in one bed? A Yes, sir.

Q Well, then, your wife and two children slept together in one room in one bed? A Yes.

Q And you and Chris Barone slept together in the same bed? A Yes, Chris and I slept in another bed.

Q But you shared a bed with Chris Barone? A Yes.

Q And why were you over here—on your vacation? A Why, I was intending making a change, and I thought I would stay here a while and see how a change would suit the family.

Q It was sort of a vacation for your family? A Exactly.

Q And you, who are the vice-president of the Burton Vanilla Company and who deals in real estate and who is interested in a finance company, and owns a garage and owns a Lincoln car, were living with your family up in Nutley for two and a half months, your wife and two children occupying one room, and you occupying another bed with Chris Barone? A Why not?

Q Well, were you? A Yes.

Q Now, were you interested in other business that you have not told us about? A Yes.

Q What other business? A Building business.

Q Well, who are you interested in the building business, what other business? A I am president of the F. C. M. Realty and Construction Company.



Q Where is that? A 98 Richmond avenue, Richmond Hill.

Q Now, is there any other business that you are interested in? A No.

Q Are you interested in any bootleg business? A I am not.

Q You use a lot of alcohol in this manufacturing plant? A I wouldn't say a lot.

Q Well, you use a little? A A little.

Mr. McGeehan: I think it is irrelevant whether he gets more alcohol than he needs for his vanilla or not.

Q You were not very much interested in Chris Barone? A In the family.

Q And very much interested in the whole family? A Yes.

Q And your only recollection of going downtown on the 19th is that Mr. McDonald testified that it was the 19th; is that right? A No, sir.

Q What else? A Just as I say, I parted with a $1,000 bill in Child's and I parted with $500 before I left the house, giving it to my missus.

Q You had an appointment to meet Big Joe Juliano? A Yes.

Q How long had you known him? A I will say two years.

Q And do you know Ruff? A Yes.

Q How long have you known him? A About eight or nine months, I would say.

Q And have you ever loaned Big Joe any money before? A No, sir.

Q Never loaned him any money before? A No.

Q When did you make the appointment to meet Big Joe? A Why, sometime the week previous.

Q Well, what time? A Well, I cannot just remember offhandedly, but I would say the middle of the week previous.

Q Where? A Why, Chris Barone called me at my office and told me I could do him a favor.

Q He would like you to do him a favor to loan Big Joe a thousand dollars; is that right? A Yes.

Q And that was the middle of the previous week? A Yes.

Q And when did you make the appointment to meet Big Joe? A Why, Chris had already set it. I said, presently, I cannot do it, but I will be in a position to do it Monday, and he said that would be fine.

Q When did you come out to Nutley? A That very same night.

Q Monday night? A No, whatever night he 'phoned me at the office and reminded me.

Q Well, what night was it? A Well, I just cannot remember; it may have been Tuesday or Wednesday of the week previous.

Q And then did you stay in Nutley or Newark from then on until Monday? A Well, I commuted in every morning.

Q Well, if it was a Wednesday, did you commute in on Thursday? A I did not quite get that.

Q Well, if this was a Wednesday that you came in that same night that Chris called you up to do that favor— A Yes.

Q —did you go into New York on Thursday? A Yes.

Q Had you been in Newark on the day before? A Yes.





Q And you had been in Newark the day before that also? A Yes.

Q And you saw Chris, didn't you? A Yes.

Q And although you saw him at the house every day, yet he called you up in New York? A Well, I parted home about 9:30 or 10:00 o'clock that morning and left him sleeping.

Q But you came there every night? A Yes.

Q And you left in the morning? A Yes.

Q But he didn't ask you about that at the house; he called you up at the office? A Yes, he did.

Q And you came into Nutley on Friday? A Yes.

Q And did you go to New York on Saturday? A Yes.

Q And came back Saturday night? A Yes.

Q What time did you get back Saturday night? A About seven o'clock, I would say.

Q That particular Saturday night? A Yes; no, on that particular Saturday night I would get home around seven o'clock.

Q Well, what time did you get home on that particular Saturday night? A Well, I would say around ordinary hours—seven o'clock.

Q And where did you get the $1,000 bill from? A Right in my safety box.

Q Where? A 14th street and Eighth avenue.

Q When did you get it? A Saturday morning.

Q You kept cash in your safety box? A Yes.

Q How long had it been there in the safety box? A Several days.

Q How long before? A Why, two or three days.

Q Well, was it there any longer than two or three days? A No; possibly three or four days; around two or three days.

Q Well, was it two or three, or three or four? A Well, I just cannot remember.

Q Well, was it four or five? A Well, I just cannot remember. It is a matter of bank record. I cashed a check that week in the Chatham and Phoenix National Bank.

Q And you put the money in your safe deposit box. A Yes.

Q Why did you put it there? A Well, there was no sense making a deposit and taking it out and bringing it over with me.

Q Well, why didn't you tell Chris that you could do him the favor then? A I always left it in the safe deposit box.

Q Will you please answer my question? A Well, maybe I did not see him to tell him that.

Q Well, you spoke to him on the telephone? A No, it was the day after he spoke to me on the telephone I went down to get that $1,000.

Q You had the money in the bank? A It was after he called.

Q You had the money in the bank? A In the safe deposit box after I had cashed the check.

Q Did you have the money in the safe deposit box or in the bank when Chris called you up? A No. I didn't even have the check cashed then.

Q Where did you have the money then?

Mr. McGeehan: I object. He said he cashed the check.

A Well, assuming he called me on Monday or Tuesday, and told me he could use this $1,000, I agreed to do this for him and told him possibly by Monday he may have it, he can have it by Monday. Thereafter I went out and got a check



and cashed it and took the money and placed it in my safe deposit box.

Q Well, didn't you have the money in the bank at the time to cash that check—at the time you spoke to Barone? A I didn't.

Q Or did you have it in the safe deposit box? A I didn't.

Q Where did you have it? A I drew a check for $2,600 from Burton and Company.

Q You had the money available at the time Chris called you on the telephone? A No, sir.

Q Well, you could have drawn the check that day and taken the money out? A I could not; no, sir.

Q Didn't you have the money, $2,600, in the bank that day? A No, sir.

Q So you could not have drawn a check? A No, sir.

Q But you did draw the check? A I did not draw the check; the firm of Kemp & Company drew a check to my order for $2,600.

Q And you got the money that day? A The following day.

Q Why didn't you bring it to Nutley then that night? A Why should I carry it to Nutley; it wasn't necessary.

Q Why not? A Because I promised to give it to him on Monday.

Q Why didn't you deposit it in your bank? A I didn't see any necessity to do that.

Q Why didn't you do it? A I didn't have to do it; there was no necessity to do it—

Mr. McGeehan: I object to all this.

The Court: Sustained.

Q Is it customary for you to keep money in your safe deposit box in $1,000 bills? A No, sir.

*Charles A. Mazzucco, re-direct.*

Q In $500 bills? A No, sir.

The Court: Why didn't you give Big Joe, or the defendant Joseph Juliano, a check for $1,000?

Witness: What would they do with a check; they want the cash.

The Court: Never mind that; I am not asking that. Answer my question. Why didn't you give him a check for $1,000?

Witness: He asked me for a thousand dollars in cash; they want cash, and I said it would be best to bring him cash anyway.

Q Don't you think you would have had a better record of the loan if you made a check out to him and it was endorsed by him and received through your bank by you on your statement?

Witness: I realize that, your Honor, but I drew a check of $2,600 from the company.

The Court: I know that, but didn't you give Joseph Juliano, referred to as Big Joe, a thousand dollar check?

Witness: I didn't think it was necessary.

*Re-direct examination* by Mr. McGeehan.

Q Have you got the check which you cashed in your pocket—

Mr. Fisch: I object.

The Court: It is not material.

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*Anthony Coffazzo, direct.*

ANTHONY COFFAZZO, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mr. Coffazzo, you are an uncle of the defendant Christopher Barone, are you? A Yes, sir.

Q Where did you live in July, 1926? A Brooklyn, New York.

Q Are you engaged in New York in business? A Yes, sir.

Q What business are you engaged in? A Real estate.

Q And how long have you been engaged in the real estate business? A Three years.

Q What is your relationship to Mrs. Barone, the mother of the defendant Chris Barone? A I am her brother.

Q You are her brother? A Yes, sir.

Q Did you visit her during her illness that she had this summer? A I did.

Q Did you come over very often or not, Mr. Coffazzo? A No, sir.

Q How often did you come over? Approximately how often did you visit the Barones? A Two or three times a year.

Q By the way, besides being a brother of Mrs. Barone, did you have business dealings with her? A I did.

Q You hold a mortgage on her property in Nutley, do you not? A Yes, sir.

Q Now, you say you came over some time during her illness. Have you a recollection, have you tried to determine by thinking back and comparing the time that you went there with other events to determine what day it was that you were over to see your sister? A I did.

Q What day was it that you called at the Barone house to see your sister who was sick? A July 19th.

Q Now, how do you determine that—how do you know that that was the date? What have you checked it up by or searched your memory with? A I came home from a vacation July 6th and I got a summons for speeding, which the officer dated July 18th.

Q Where was that? A Hastings, New York.

Q That was returnable on the 18th? A Yes, sir.

Q Tell us how that aids you in determining that you went over on the 19th? A Well, I went up to Hastings in the morning; I took my family out.

Q What day of the week was that? A On a Sunday.

Q And what was there that makes you think that that summons was returnable on a Sunday? A Well, I paid $15 there.

Q But did you go up to Hastings? A I did.

Q Was any court being held on the 18th, Sunday? A No, sir.

Q But did you see the officer who had given you the summons? A Yes, sir, I did.

Q Did you see the judge of the court? A No, sir.

Q Did the officer communicate with him? A Yes, sir.

Q And what did you do? A I left $15; the officer called up the judge and the judge told him—

Mr. Fisch: I object.

Q So you left $15 there? A Yes, sir.



Q And did you have to appear at any other time there? A I was supposed to appear the 19th at 7:00 P. M.

Q But you left the deposit and forfeited it instead? A Yes, sir.

Q You did that after the officer spoke to the judge? A Yes, sir.

Q How does that help you to fix the date to what happened when you got home to Brooklyn that Sunday, the 18th; what did you learn there? A I stopped at my brother's home on the way back from White Plains.

Q Which brother is that? A My brother Michael.

Q Where does he live? A He lives at 59th street.

Q New York City? A In Brooklyn.

Q What did you learn there? A I learned there that my sister was sick and I told them that I was going to pay them a visit in the morning.

Q Did you go over in the morning? A I did.

Q What time did you get to the Barone house that Monday morning? A Around 11:00; some time between 10:30 and 11:00.

Q What time did you leave your house to get there? A About ten minutes to nine.

Q That day that you came over did you see some other members of the family that you were visiting? A I did.

Q Who did you see? A I seen Mr. Mass, Mrs. Mass, my nephew Joseph, his wife and my two nieces.

Q Yes, and who else? A And Mass' two children.

Q Did you see Chris? A And Chris.

Q And where were you with them? A I was standing up; they were having breakfast at the table.

Q Did you have breakfast with them or not? A No, sir.

Q They were having breakfast? A They were.

Q Some of them? A Yes, sir.

Q Did you come downtown with Chris or some of the others? A No, sir.

Q What time did you leave the house that day? A Around noon.

Q Around noontime? A Yes, sir.

Q Do you know about what time it was? A No, sir.

Q Do you know if it was 12:00 or 12:30 or 1:00 o'clock? A No, sir.

Q Did any of them leave before you left? A Yes, sir.

Q Who were they? A Chris, Joe and Mr. Mass.

Q What time would you say they left; how long before you left would you say? A Oh, about half an hour before I left.

*Cross examination* by Mr. Bigelow.

Q What time would you say? A Oh, about half an hour before I left.

*By Mr. Bigelow.*

Q When did you get this summons for speeding? A July 6th.

Q What kind of a looking paper was it; how big was it? A A small paper, a summons.

Q About that size (indicating)? A No, sir.

Q Larger or smaller? A One-third of that.



Q About that size? A Something like it.

Q Printed? A Yes, sir.

Q How did you get it? A Speeding.

Q How did you get it, mail, or how? A By hand, personally.

Q From a police officer? A Yes, sir.

Q And it commanded you to appear in some court on the 18th day of July? A Yes, sir.

Q Are you sure of that? A Positive.

Q And yet when you appeared on the 18th day of July you found that court was not sitting and you were supposed to appear on the 19th? A I inquired about it.

Q Yes, but the fact is, as I say, when you got there on the 18th you found that the court was not sitting and you should appear on the 19th? A Well, I inquired about it, and found the court did not sit on Sundays, but they sat on Monday at night.

Q And yet you say the summons told you to appear on the wrong day? A Yes, on the 18th.

Q At what hour? A At 7:00 P. M.

Q And were you there at Hastings at 7:00 P. M. on the 18th? A I was up in White Plains.

Q You were at White Plains? A Yes. I stopped first in Hastings and from there I went to White Plains.

Q When did you get to White Plains? A I got there some time around one o'clock.

Q The summons did not require you, however, to appear until seven o'clock? A Yes.

Q But you were there seven hours ahead of time? A I was there around noontime.

Q Did you wait until seven o'clock? A No.

Q How near is Hastings to White Plains? A About three-quarters of a mile.

Q You received the summons in Hastings? A Hastings, New York.

Q But you answered it in White Plains, three-quarters of a mile distant? A I answered it in Hastings, New York.

Q Well, didn't you just say that you went to White Plains? A I did. After I found out the court was closed I went to White Plains. I had my family with me.

Q Well, what time did you go to Hastings? A I left my home at 9:10.

Q But what time did you go to Hastings? What time did you get there? A Around 11:30; right around noontime. I cannot exactly remember the time.

Q Where did you go in Hastings? A I inquired about the court.

Q Where did you inquire? A I inquired of a fellow on the corner. I asked him where was the court house.

Q And you learned where the court house was? A I did.

Q And you went there? A I did.

Q Did you find anybody at the court house that Sunday around 11:30? A No.

Q And then you went on to White Plains? A No, sir.

Q Where did you go? A I asked a fellow there next door if they held court there in the evening and he said, "Why, no; they don't hold any court here on Sunday." I told him this is a funny thing, and he looked at my summons and he said, "Go on the corner; there is a police booth, and inquire there"; and I did.

Q You went to the police booth on the corner? A I did.

Q And did you find a police officer there? A I did.

Q And it was there you left the $15? A No.



Q What day of the week did you get this summons? A On a Tuesday.

Q July 6th? A July 6th, yes.

Q And it did not tell you to appear the following Monday? A On the 18th.

Q On Monday, the 19th, when did you leave your home? A About ten minutes to nine.

Q Did you drive in your car? A No, sir.

Q How did you leave? A By subway.

Q Where did you live in Brooklyn? A 1428 Seventy-fifth street.

Q Whereabouts in Brooklyn is that? A Well, near Bath Beach.

Q Bath Beach? A Yes.

Q Is that down on the bay? A Near the bay; about two miles away from the bay.

Q Near Coney Island? A Around that section.

Q And you took a subway from there to where? A To the Hudson Tubes.

Q And then out on the Hudson Tubes? A Yes.

Q To Park Place, Newark? A Yes.

Q And then how did you proceed? A I took a taxi from there to my sister's.

Q Up in Nutley? A Yes.

Q And you got there, I think you said, at what hour? A Well, I very well can't say the exact time, but I believe it is between 10:30 and 11:00.

Q And what time did you say you left your house? A Ten minutes to nine.

Q Are you sure that that was the hour that you left? A I am positive.

Q Did you look at your watch? A Yes.

Q You looked at your watch? A I did, yes.

*Anthony Coffazzo, cross.*

Q And noticed it was ten minutes to nine just as you were leaving? A As I got on the station.

Q How long did you stay out here in Newark? A That morning?

Q In Nutley, I should say. A Well, about three-quarters of an hour, I believe.

Q And then where did you go? A I came back to my office.

Q Did you have the taxicab wait for you? A No.

Q How did you get back? A I took another cab on Washington avenue.

Q Do you know what color taxicab it was you took coming back? A I called, I believe, a yellow taxi when I went, but I am not sure whether it was a yellow coming back.

Q How did you happen to get it? A I happened to see it passing on Washington avenue.

Q What hour did you arrive at your office? A Well, I should judge a little after one. I could not say the time. I know it was after one.

Q And at half-past one, or not as late as that? A Well, I am not positive of the time when I got back.

Q Did you go directly from Nutley to your office or did you stop for lunch? A I took a train at Park Place and went right to my office.

Q Where is your office? A 102 Mott street.

Q Brooklyn? A New York.

Q That is down near the City Hall? A Nearer Canal street.

The Court: Chinatown?

Witness: No, sir.

Q You are the uncle of Chris Barone? A I am.



*Anthony Coffazzo, cross.*

The Court: Who did you see at Barone's when you arrived there?

Witness: I seen Chris, Joe, Joe's wife, and I seen my two nieces, Mrs. Mass and Charlie.

The Court: Well, now, did you remain until they had started for Newark or their destination, or did you go before they left?

Witness: Oh, I stayed there; they went down.

The Court: Who was eating breakfast when you got there?

Witness: Well, Chris, Charlie and Joe was sitting around the table.

*By the Court.*

Q Well, were they eating? A Well, they had coffee and sandwiches lying on the table.

Q Well, were they eating? A I could not see what.

Q Where? A At the entrance when you go inside.

Q In the restaurant? A Yes.

Q Where was the machine, if you saw it at all? A I didn't say I saw any automobile.

Q No; I am asking you now did you see any automobile? A No.

Q You did not see any automobile? A No.

Q You say you left before they left to go downtown? A I left after they left.

Q How did they leave to go downtown? A They said they were going to go across the street to go downtown.

Q Were you there before? A No, sir.

Q When was it since you were there before? A Some time in June. They just shook hands

with me with regard to the family and went on and I went upstairs to my sister.

Q What time did you reach the Barone home? A I should judge between 10:30 and 11:00.

Q Where did the taxicab stop that you came back in? A In front.

Q And you saw no automobile in front of the door? A Not in front of their door.

Q Did you look around before you went in? A No, I went right in.

*By Mr. Bigelow.*

Q How near to your home in Brooklyn to the subway station? A Three blocks.

Q What station is that? A West End Line.

Q What station? A 72nd street.

Q And do you know the name of the officer in Hastings, was it, that you gave the $15 to? A I believe I do.

Q Do you know the name of the officer in Hastings to whom you gave the $15? A I believe I do.

Q What is it? A Croll.

*Re-direct examination* by Mr. McGeehan.

Q Are you sure of that name? A I wouldn't say positive, but that is what I remember.

Q He is of the Hastings Department? A Yes, sir.

Q I think you said to the Court that they said they were going across the street to get the car? A Yes, sir.

Q Was that just before they left? A Yes, sir.

Q But you did not leave the house when they left? A No, sir.



Q You were with your sister? A I remained upstairs with my sister, yes.

Adjourned until tomorrow, Tuesday, November 30, 1926, at ten o'clock A. M.

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## THIRTEENTH DAY.

Tuesday, November 30, 1926.

Appearances as before stated.

Trial continued.

Mr. Bigelow: Your Honor, yesterday, you may recall the State questioned a witness, Dorothy Miller, about an alleged conviction for fornication in 1917 or '18, if I recall the date. I have had a careful investigation made since then and it appears here that the conviction was against another girl, and that that witness was not in any way connected with that case.

The Court: All reference to that will be stricken from the record.

Mr. McGeehan: We have heard from the girl in Cincinnati. We have received one telegram to the effect that she was on her way, or coming immediately, and then we have received a letter to the effect that she is ill and expecting a baby. She is a married woman and unable to come, and the letter says something about "Gladys cannot come there alone," and "I do not see how they can do anything," and apparently she is unwilling to come, and, of course, there is no process by which the Court can bring

her here. We have sent three telegrams and have sent the money and have enlisted the aid of her aunt with whom she lived here, and I do not see that anything can be done. This was verified, I understand, by Detective Kenny, who, the aunt tells us, was there yesterday morning and who has been there every day since the telegram was sent. Whether he has been there since the receipt of this letter I do not know. At the time Nicholas Joseph Juliano was on the stand I was offered the opportunity to cross examine him and I stated to the Court I had no questions which might be proper cross examination, and that I might call him later—

The Court: That you might call him as your own witness?

Mr. McGeehan: Yes, and if counsel does not object I would like to call him for that purpose now.

NICHOLAS JOSEPH JULIANO, recalled in behalf of the defendants Barone, Capozzi and Joseph Juliano.

*Direct examination* by Mr. McGeehan.

Q Juliano, in or about the month of September, 1926, were you in an automobile or by an automobile on Drift street in front of or in back of your mother's house? A Yes, sir.

Q And who else was with you in or around that car? A Robert Boudreau.

Q At that time did you see Joseph Juliano go by in his car? A Yes, sir.

Q Did he call you over to him? A Yes, sir.



Q And did you speak to him? A Yes, sir.

Q Then did he drive off? A Yes, sir.

Q That was a chance meeting, was it? A Yes, sir.

Q At any time during that episode did Boudreau speak to Joseph Juliano at all? A No, sir.

Q When you went back to the car did he ask you who that fellow is and did he tell you he is Big Joe Juliano?

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

The Court: Sustained.

Mr. McGeehan: The foundation was laid for that, if the Court please.

The Court: I know, but this is your own witness now and you are leading him.

Mr. McGeehan: Your Honor, as I understand the rule, this is not within the category of leading questions, but when you have laid a foundation you must have—there is no alternative but to ask the direct question in the language that you use in laying the foundation.

The Court: Well, there is no difficulty as to the time. Therefore, why not ask him what was said.

Mr. McGeehan: No, sir, because it would be improper, it would be objectionable. What I am asking I have laid the foundation for in almost the very words.

The Court: Whom have you in mind?

Mr. McGeehan: Boudreau. This is admissible only to contradict what Boudreau said.

The Court: And that is the purpose of this question?

Mr. McGeehan: Yes, sir.

The Court: And you have already asked Boudreau that question?

Mr. McGeehan: Yes, surely.

The Court: All right.

Q (Question read.) A Yes, sir.

Q Now, when you stated that it was Joe Juliano, or Big Joe Juliano, are those the words you used, or did you say the same thing in other words? A I said he is my cousin, Joe Juliano.

Q He is my cousin, Joe Juliano? A Yes.

Q Now, on the other occasion, were you with three other people including Boudreau and two girls at a point somewhere near the starting point of the Passaic jitneys up in Belleville? A Right at the Mitchell gas station at North Newark.

Q At what place? A At North Newark, right at the station there.

Q And do the Passaic jitneys start from there? A Yes.

Q And on that occasion, did you see Chris Barone— A Yes.

Q —standing there? A Yes.

Q At that time did Boudreau ask—I will withdraw that. Did he speak to you about the car? A As soon as Christopher Barone alighted, he said, "Who is that?" I said, "That is Buck Joseph's brother, Chris Barone."

Q And was a girl named Chillie in the car at the time? A Yes.

Q When was that? A In around the middle of September.



The Court: Whose automobile were you in?

Witness: Mine.

Q What kind was it? A A Hudson brougham.

The Court: On both occasions were you in a Hudson brougham?

Witness: Yes.

Q And the other people were riding, that is, Boudreau and two girls were in your car with you? A Yes.

Q And Chris Barone was not with you? A No.

Cross examination waived.

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JOSEPH SCAGLIONE, sworn in behalf of the defendants.

*Direct examination* by Mr. McGeehan.

Q You are a chauffeur? A Yes.

Q Did you work for the Barone family in 1926? This year? A Yes.

Q Are you the boy they called Ambrose? A Yes.

Q And during the time that you worked for the Barone family, did you do any work upon their automobile or automobiles? A Yes.

Q Are you familiar with the Cadillac car owned by the family? A Yes.

Q Did you do any work on that or drive it in July of this year? A Yes.

*Joseph Scaglione, direct.*

Q Do you remember an occasion when you greased that car? A Yes.

Q Where did you do the greasing of the car? A McDonald's garage.

Q How often, by the way, did you grease the car? A About every three or four months.

Q That is, a thorough greasing? A Yes.

Q And did you grease that Cadillac coach in July? A Yes.

Q Do you know who greased it with you? A Mr. McDonald.

Q Mr. McDonald? A Yes.

Q That is the man who was on the stand here? A Yes.

Q Now, on the occasion that he greased it with you where did you buy the grease that was put in it? A At his garage.

Q And did you buy it at that time, or at a different time from the time of the greasing of the car? A The same time.

Q And do you know about how much grease you got at this time? A Yes.

Q You have checked up on it, have you? A Yes.

Q How much did you get? A Four pounds of grease.

Q And what date was that? A July 19th.

Q Now, at the time that you were greasing that car, where was that car, do you remember? A In McDonald's garage.

Q And what part of the garage was it in? A As soon as you drive in, the first car near the door.

Q And after you greased that car, who drove away in that car? A Buck Josephs, Christopher Barone and Charles Mass.

Q And about what time did they drive away from there in that car? A About 11 or 11:30.



*Joseph Scaglione, cross.*

Q Did you see where they came from? A Yes, across the street over in their home.

*Cross examination* by Mr. Fisch.

Q What made you remember all of the details of that transaction? A I checked up on the slips.

Q You checked up on the slips? A Yes.

Q You mean Mr. McDonald's slips? A Yes.

Q And that is the only thing that makes it clear to you that the car was greased on that day, is that right? A Well, that is not the only thing.

Q Well, you say that you checked up on the slips and that was why you were sure that it is that day? A Yes, I am sure it is that day.

Q And that is why you have a recollection of this transaction? A Yes.

Q Is that right? A Yes.

Q Because you checked up on the slips? A Yes.

Q And that is why you know that the car was greased that day? A Yes.

Q And is that how you know that Buck Josephs and Chris Barone was with you? A Yes.

Q Because you saw the slips? A I seen the slips and then I remembered about it.

Q When did you see the slips? A I just can't remember when I seen the slips.

Q Well, how long ago? A Sometime in October.

Q So that from July until October, you had no recollection of this transaction at all, did you? A No, sir.

Q And then in October, when you saw the slips, that recalled to your mind the fact that the car had been greased on that day? A Yes.

Q And that recalled to your mind the fact that Buck Josephs was with you, is that right? A Yes.

Q And what recalled to your mind the fact that you saw them coming across the street? A Well, I made them wait for the car.

Q What is that? A I made them wait for the car.

Q Who did you make wait? A The three of them, Buck Josephs and Chris Barone and Charlie Mass.

Q That recalls that to your mind? A I made them wait for it.

Q What recalls that to your mind? A What recalls it?

Q Yes. A Well, I just remember making them wait for the car.

Q You made them wait on other occasions, didn't you? A No, sir.

Q You never made them wait? A No, sir.

Q And are you the regularly employed chauffeur for the family? A Yes, sir.

Q And you worked there all year round? A No, I haven't worked there a year for them.

Q How long have you worked for them? A Oh, about eighteen months.

Q And what salary do you get? A I get $15 a week.

Q Regularly every week? A Yes, sir.

Q Every week you get $15 a week? A Yes, sir.

Q Who pays you? A Mrs. Barone.

Q Did Christopher Barone ever pay you? A He would give me side money.



Q How much side money would he give you? A Well, he would give me $5, $10 $15, it is according to how he felt.

Q How often would he give you this side money? A Every week.

Q And in addition to that Mrs. Barone paid you $15 a week? A Yes, sir.

Q Did she pay you by cash or by check? A By cash.

Q Where did she pay you? A In her home.

Q And who was present when she paid you? A Well, the family would be present, I suppose.

Q You are sure that you got a regular salary? A Yes, sir.

Q And did you stay at the house? A No, sir.

Q Never stayed at the house at all? A Once in awhile if I came home late I would stay there.

Q Where do you live? A 12 Wilson street, Nutley.

Q And did Christopher Barone ever come to your house to get you? A No, sir.

Q You were always on deck, were you? A Yes, sir.

Q Have you ever been convicted of crime? A Yes, sir.

Q How many times? A Once.

Q You were convicted of entering, larceny and receiving, weren't you? A That is the only time, yes, sir.

Q And that was in January, 1924? A Yes, sir.

Q And you say that this car was greased every three or four months? A Yes, sir.

Q And that would be the only occasion for your buying grease, would it not when the car was greased? A Yes, sir.

Q And that you would fix it by the slips at McDonald's garage? A I would fix it first by the slips and then I remembered about it.

Q But if a slip at McDonald's garage showed that you bought grease from McDonald's garage that would show you that the car was greased on the date of that slip, wouldn't it? A Well, no, it wouldn't show it was greased. Sometimes I would just get a gun full and put it maybe on the steering gear or something.

Q Well, how much grease would a gun full be? A It might take a pound.

Q It would not take more than a pound? A Well, maybe I would fill it up more than once.

Q What is that? A Maybe I would fill the gun more than once.

Q Well, what would be the occasion of your filling the gun with grease if your car was greased? A Sometimes there would be a squeak in it and I would have to take the squeak out.

Q Didn't you buy grease from McDonald's garage on the 29th of July? A I don't remember.

Q Well, if the slip shows so would you say that you bought grease on that date? A No, sir.

Mr. McGeehan: I object to that as not a proper question. You might show him the slip and see if it refreshes his recollection.

Q Isn't that a slip of McDonald's garage? A Yes, sir.

Q And isn't it dated July 29th? A Yes, sir.

Q And doesn't that show the purchase of grease on that date charged to Chris Barone? A Yes, sir.



Mr. McGeehan: How much grease?

Q Two pounds of grease? A Yes, sir.

Mr. Fisch: I ask that this be marked for identification.

The Court: I think it is in evidence, isn't it?

Mr. Bigelow: No, it is not one of those in evidence.

(The slip is marked S. 27 for identification.)

Q Now, were you present in the court room all during this trial? A Not all the time.

Q Were you present while the witness Boudreau was on the stand?

Mr. McGeehan: I object to that as not cross examination.

The Court: I will allow that question.

A Yes, sir.

Q Did you hear him testify with regard to the Pierce-Arrow car?

Mr. McGeehan: I object to that.

The Court: Sustained.

Q Did you make a statement in the court room as to the accuracy of Boudreau's testimony with regard to that Pierce-Arrow car?

Mr. McGeehan: I object as not a proper question.

The Court: Sustained.

*Angelina Barone, direct.*

ANGELINA BARONE, sworn in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Mrs. Barone, you are the wife of Joseph Barone? A Yes, sir.

Q And during July of this year and before that and since that have you lived at the home of his mother in Nutley? A Yes.

Q At that time, what other people lived in your mother-in-law's house? A Mr. and Mrs. Charles Mass and their two children.

Q And who else besides? A My mother-in-law and sisters-in-law and brothers-in-law.

Q And do you remember an illness of your mother-in-law during the month of July? A I do.

Q Mrs. Barone is your mother-in-law? A Yes.

Q Do you remember her illness in the month of July? A Yes.

Q Do you remember when that illness took place? A In July.

Q Well, do you know what part of July, approximately? A Well, around the 16th.

Q What makes you mention the 16th of July? A Well, it was the Saint's day and we did want to celebrate that day, but we could not on account of her being sick.

Q Was the 16th the first day she was sick? A No, sir. She was sick before that.

Q How how long was she sick altogether? A Well, I just could not say how long she was sick, but I know she was up for the 22nd.

Q You know she was up for the 22nd? A Yes.



*Angelina Barone, direct.*

Q What happened on the 22nd? A That is the day we went away on our vacation.

Q Where did you go? A Long Branch.

Q Where did you stay at Long Branch? A At the Tyler House.

Q That is a hotel in Long Branch? A Yes.

Q Now, you know she was up for the 22nd? A Yes

Q Was she up much before your vacation started? A No, sir, about a day or two.

Q Who called members of the household usually when she was well? A She did.

Q Who did during the time she was sick? A I did.

Q You did? A Yes.

Q She was sick in bed, was she? A Yes.

Q Now, do you remember during the period of her sickness your husband and brother and Charlie Mass coming home at night? A Yes.

Q Did you at any time during her sickness call them in the morning? A Yes.

Q When did they ask you to call them in the morning? A They asked me to call them around ten o'clock.

Q And when was that they asked you to call them around ten o'clock? I mean when was it that they put that direction to you? A Well, I do not just remember when it was, but I know it was at night when they came in.

Q Do you know what time they came in? A After 12.

Q So they told you to call them at 10 o'clock in the morning? A Yes.

Q Did you call them in the morning? A I called them a little after ten.

Q Did they get up? A Yes.

Q Do you remember what time they left the house that morning? A Well, they left about at eleven or 11:30.

Q What did they do before they left the house? A They had breakfast.

Q And you figured that took about an hour? A About an hour or three-quarters.

Q Now, do you remember whether you had any relative of your mother-in-law there that morning? A Yes.

Q Who was that? A Mr. Charles Mass and his wife and children.

Q Was there any visitor there besides them? A Yes, my uncle.

Q That is Caffazzo? A Yes.

Q Now, do you know of your own knowledge just what day of the month that was? A That was in July.

Q I say, do you know of your own knowledge what day of the month it was around? A I do.

Q And do you remember it yourself, or because it has been checked up at the garage? A It has been checked up.

Q Of your own memory you do not know what date of the month it was? A I know about it, because it was around the 16th.

Q You know it was during your mother-in-law's illness? A Yes.

Q But you wouldn't know the exact date of it? A No.

Q Except you heard others check up on their recollection? A Yes.

*Cross examination* by Mr. Bigelow.

Q When your mother-in-law was well she was the first member of the family up? A Yes.



Q And did she call the others every day? A Yes.

Q And when she was sick and unable to call them, did you call them every day in her place? A Well, not every day, only when they told me to.

Q Your mother-in-law, when she was up used to call them every day? A She called them every day when they would get up late.

Q But when you were substituting, you did not call them every day? A No.

Q Did you call them more than once? A No.

Q Had you ever been in the habit of calling members of the family on other occasions when your mother-in-law was sick? A Yes, when they told me to.

Q But you had done it at other times when your mother-in-law was sick? A I have.

Q When was it your mother-in-law was last sick before the 16th of July? A In the winter sometime.

Q And then she had been in good health until the middle of July? A Well, she was all right until around the 16th.

Q How long, about, was she confined to her bed at that time? A Well, I just do not remember. It could not have been more than a week.

Q Would you say it was more than three or four days? A It was more than three or four days.

Q About five or six days? A It was about a week.

Q Did you have a doctor during that period? A No, sir.

Q Now, after she was able to get up, did she resume the practice of calling the other members of the family? A Yes.

Q And you did not have to do that any more? A No.

Q During that week when she was ill, did you call the other members of the family more than once? A Well, I did when they got up later.

Q How many times? A Well, I just do not remember how many times.

Q Well, would you say it was three times? A I just cannot remember.

Q It might have been three? A No, it would have been no more than once.

Q Why do you say you cannot remember whether it was three times or not? A Well, I never called them up unless they told me to call them up and I never called them up unless they got up late.

Q Well, didn't they get up late quite frequently? A Well, I don't know, I cannot remember.

Q Didn't your brother Christopher and Joseph habitually get up late in the morning? A Well, my brother-in-law does, but my husband don't.

Q What time does he usually get up? A Who do you mean?

Q Your husband? A Well, he gets up around nine or ten.

Q And what time does your brother-in-law, who usually gets up late, get up? A Around twelve, one sometimes.

Q How many times did you call him during that week? A Once.

Q Just once? A Yes, sir.

Q Just what day of the week was that, Monday? A I just don't remember what day of the week it was.



Q Did your mother go to the shore the day after she got up? A No, sir, she came afterwards.

Q I did not catch the answer? A No, she did not go on the 22nd, she came about three or four days after that.

Q She went three or four days after what? A After the 22nd, the day that I left.

Q You left but your mother-in-law did not leave at the same time? A No, sir.

Q Did you leave her in bed? A No, sir, she was up.

Q Had she been up the day before you left? A Yes, sir.

Q Had she been up two days before you left? A No, sir, she had only been up about a day or two before I left.

Q A day or two? A Yes, sir.

Q Then she may have been up two days before? A No, sir.

Q And then she may have been up three days? A No, sir, I would not say no more than two.

*Re-direct examination* by Mr. McGeehan.

Q By the way, your mother-in-law suffers from kidney and heart trouble, does she not? A Yes, sir.

*Re-cross examination* by Mr. Bigelow.

Q Who went to the shore with you on the 22nd? A Well, I did, and Mrs. Charlie Mass and her two children and my sister-in-law.

Q None of the men? A No, none of the men went.

Q Mrs. Charlie Mass, her two children and your sister-in-law? A I.

Q Was that all? A That was all that went down on the 22nd.

Q Who went later? A My mother-in-law went down with the other children.

Q Who are the other children? A Well, it is my brother-in-law Johnny and my sister-in-law Maggie.

Q Your brother-in-law Johnny? A Yes, sir.

Q And your sister-in-law? A Margaret.

Q And how old is Margaret? A She is thirteen.

Q And how old is Johnny? A He is fifteen.

Q Does Johnny go to school? A Yes, sir.

Q Did he go to summer school? A No, sir, he did not go to school then, but he goes to school.

Q Who did that leave in the house when all of these had gone? A Well, Freddy and my husband was there and Chris.

Q Freddie who? A Freddie Barone, my brother-in-law.

Q And your husband and Christopher? A Yes, sir.

The Court: Mrs. Barone, in response to the Prosecutor's question you said you could not remember calling your brother-in-law but once?

Witness: Once, yes, sir.

The Court: And I think you called him when you said he slept late?

Witness: No, sir, he asked me if I called any of the other members of the family and I said I did when they were late.

The Court: Other members of the family?

Witness: Yes.



The Court: When did you brother-in-law Chris tell you to call him?

Witness: Well, he came in one night and and told me to call him around ten o'clock the next morning.

The Court: And that was the only time that Chris asked you to call him?

Witness: Yes, sir.

The Court: And that is the only time?

Witness: Yes, sir.

The Court: At any time since you have been living there?

Witness: Well, I have been living there two years now, and I know that is the only time my mother-in-law was sick and he asked me to call him up.

The Court: Is that the only morning since the time that you have been living at that house that you called your brother-in-law to get up?

Witness: No, there were other mornings.

The Court: When before that?

Witness: Well, I just can't remember when before that.

The Court: How many times would you say?

Witness: Well, about two or three times.

The Court: Within what period?

Witness: I cannot say within what period.

The Court: Was it after this morning that you remember so well?

Witness: No, not after this morning, before.

The Court: Was it two months before?

Witness: No, sir.

The Court: Or three months?

Witness: No, sir, it might have been about five or six months before.

The Court: And you remember this morning was near the 16th?

Witness: Yes, it was near the 16th.

The Court: Was it after or before the 16th?

Witness: It was after the 16th.

The Court: How many days?

Witness: Well, around two days.

The Court: Maybe three?

Witness: I would not say no more than two.

The Court: The 18th?

Witness: That would be the 19th. I called him up on the 19th morning.

The Court: You are sure of the 19th?

Witness: I don't know whether it was the 19th, I would figure it out, the 16th, 17th and 18th he came in that night and told me to call him up the next morning, I don't just remember what morning it was.

The Court: Then he came in the early morning of the 17th?

Witness: No, sir, he came in just one night I don't just remember what time, but I know he came in one night and told me to call him up.

The Court: Now, with regard to the 16th, how many nights after the 16th did he come in?

Witness: It could have been no more than two nights.



The Court: Then it was the night of the 18th and he told you to call him on the morning of the 19th?

Witness: Yes, sir.

The Court: And that was the only morning within five months?

Witness: Yes, sir.

(Exhibit D. 1 for identification was marked D. 1 in evidence.)

(Specimens of defendant Capozzi's handwriting offered in evidence and marked Exhibit D. 18.)

The defendants Louis Capozzi, Joseph Juliano and Christopher Barone rest.

The Court: Mr. Kavanagh, have you anything else?

Mr. Kavanagh: No, sir; not at this time.

Mr. Bigelow: May we reserve the right to call Mr. Geldart for further cross examination?

The Court: Yes.

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*Joseph Coccozzi, direct.*

JOSEPH COCCOZZI, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

(Sales slip marked D. 27 for identification offered in evidence and marked Exhibit D. 27.)

Q You are one of the County detectives of Essex County? A I am.

Q How long have you been a County detective? A About two and a half years.

Q Did you, last Saturday, go to Wilmington, Delaware? A On Sunday.

Q Did you go to Brandywine street? A I did.

Q How long a street did you find it? A It is a block long, runs from East 11th street to East 12th street.

Q Did you go to number 140? A There is no 140.

Q What are the numbers on that street? A The numbers begin on the east side from 1101 to 1127 and on the west side from 1102 to 1128.

Q The street begins at 11th street and the numbers start at 1101 after the Philadelphia fashion? A Yes.

Q What kind of houses are there on that street, or what kind of structures? A They are two-family, red brick, attached houses on each side of the street.

Q Are there any three-story buildings there? A No.

Q Did you make inquiries for a family named Spitzner? A I did.

Mr. McGeehan: I object.

The Court: That is evidential.

Mr. McGeehan: I object on the ground it is not.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q How did you make the inquiry? A I inquired at several houses. On each side of the street, and the grocery store on the corner of East 11th street and Brandywine street.

Q I think you said that the highest number was 1130? A 1128.

Q So there was no 1140? A No.

Q Did you find this family? A No, I didn't.

Q Did you go to Brandywine avenue? A There is no Brandywine avenue.

Q In Wilmington, Delaware? A Yes.

Q What inquiries did you make for Brandywine avenue? A I inquired at the fire station, which was near Brandywine street, and I inquired at the police department and several police officers.

Mr. McGeehan: I object to this conversation as not binding on the defendant and not applying to a time when the testimony is to be rebutted.

The Court: That does not affect the competency. It might go to the credit.



Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Since you returned and this morning, did you, at my direction, look in a book marked "Wilmington directory, 1923-1924?" A I did.

Mr. McGeehan: I object on the ground that that would not be evidential of anything.

Mr. Bigelow: The question only calls for a yes or no answer.

The Court: I will allow the yes or no.

Mr. McGeehan: I will withdraw the objection to that extent.

Q Now, answer this question, also, yes or no, unless objection is made. Did this directory contain a directory of streets arranged in alphabetical order?

Mr. McGeehan: I object on the ground that its contents would not constitute any evidence.

The Court: The difficulty concerning that is the proof as to the directory, that is my difficulty.

Mr. Bigelow: I will admit I am having the same difficulty myself. I did not know whether it would be evidential or not.

The Court: If it were a local directory, it would be different. I will sustain the objection.

Q Did you make inquiries of the telephone company in Wilmington while you were there for records of toll calls from pay stations in Wilmington to Newark on the 19th day of July of this year?

Mr. McGeehan: I object to that on the ground that that would be purely hearsay, that the records of the telephone company, if brought here would not be objected to or any person having an authentic record, but to give the second-hand testimony of someone who says he saw certain records would not be competent evidence.

(Argument.)

Mr. Bigelow: Is the question whether he made such inquiries not permissible?

The Court: The difficulty is as to the proof of the record, and his answer to that would be based on hearsay as to the kind of records.

Mr. Bigelow: Well, his answer to the immediate question would be, I take it, that he either did not make the inquiry or did make it.

The Court: I will permit him to answer whether he did make the inquiry but I will not permit him to state the result of such inquiry.

Q Did you or did you not make such inquiry? A I did.

Q As a result of that inquiry did you go to Philadelphia? A I did.

Q To the Telephone Company there? A Yes, sir.



Mr. McGeehan: I object to this on the ground it is not binding on the defendants, nor evidential against them.

The Court: I will allow that question.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Did you repeat your inquiry at the Philadelphia office of the telephone company? A I did.

Q What did you learn of this inquiry as to such records?

Mr. McGeehan: I object to that.

The Court: Sustained.

Mr. McGeehan: I won't object as to whether the company possessed any records of pay station calls.

Q Did the company possess any records of pay station calls for a period including July 19, 1926, up to the time of your inquiry? A No, sir.

*Cross examination* by Mr. McGeehan.

Q Did you find that a street called 10th street leads from Brandywine avenue to Market street? A No, sir.

Q Did you find that 11th and 12th street did? A 11th and 12th street run into Market street.

Q And there is a 10th street there, is there not? A There is a 10th street.

Q So following Brandywine avenue you could walk over 10th street to get into Market? A It is Brandywine street, but you cannot get into 10th street from Brandywine street.

Q But you could walk over 11th street from Brandywine street to get to Market? A Yes, sir.

Q And it is about ten blocks from Brandywine street to Market street? A Nine blocks.

Q And there are no telephone booths along there, are there? A I don't know.

Q You didn't see any, did you? A No.

Q This is a residential section? A Well, there is a bridge there that takes up about three blocks and then there are some houses there and some stores.

Q That is Brandywine creek that the bridge runs over? A Yes, sir.

Q And it is a big creek? A Yes.

Q About three blocks wide? A The bridge, is three blocks.

Q Did you turn left on Market street when you got there? A Well, I turned left and right.

Q And did you find that there is a department store somewhere along there? A There are numerous department stores.

Q You had the name of the department store that Miss Miller testified about? A Yes, sir.

Q Did you find that department store was somewhere in there? A That was on Fourth and Market street on the east side.

Q And it was five or six blocks from 11th street, wasn't it? A Yes, sir, five blocks—seven blocks from 11th street.



Q Now, did you see Liggett's drug store there on Market street? A I did.

Q Did you see telephone booths there? A I did.

Q Did you see them as the witness described them? A No, sir.

Q Did you see them inside of the store? A They are inside to the rear of the store.

Q And are you sure of that? A Yes, sir.

Q How many booths are there? A Two.

Q And do you go to the left or the right to get them? A One on each side.

Q Now, then you went down to Brandywine street, you say? A Yes, sir.

Q And you inquired for a family named Spitzner? A Spitzner, Spitzer or Spitzka.

Q And you went into some of the houses? A Yes, sir.

Q You did not go into all? A No, not all of the houses.

Q And when you did go into a house there, what would you say, what would be your inquiry? A I would ask them if they knew a family by the name of Spitzner, Spitzer or Spitzka, and the first name was Earl for the husband, Ruth for the wife, and they said they never heard of people of that name. I would ask them how long they lived there and they told me the length of time they lived there, and it was some time.

Q Why didn't you go into all of the houses, if it is only a block long? A I didn't think it was necessary.

Q Now, were some of them two-story houses? A They were all two-story houses.

Q And did some of them have two floors, and three floors and an attic? A None of them had over two floors, they are flat roofs.

Q Every one of them flat roofs? A They are all attached houses, they are a row of attached houses, all the same.

Q Some of them have a basement, first and second floor? A There may have been a basement.

Q So that if they had a basement and one or two floors, it would be three floors? A The basement was below the sidewalk.

Q But it was inhabited as a basement? A Not to my knowledge, the basement did not appear inhabited.

Q You didn't notice that? A The basement did not appear to be inhabited.

Q Did you see any of the owners of any of these properties? A Well, I did not inquire as to whether they were the owners.

Q You did not look for the owner or owners of the property? A No, when they told me they lived there a length of time I took it for granted they knew everybody.

Q And how long were you on that street altogether? A I was on that street about three-quarters of an hour.

Q Did you find that those flats had four rooms in them? A I didn't enter the houses. The people would come to the front.

Q So the people you asked would come to the front door? A Yes.

Q You did not go to the top floor of any house? A No.

Q So that any of the houses, you did not go to the top floor and inquire? A I didn't enter any houses.

Q And you only went to the front door of a few of them? A Yes.



WILLIAM R. THOMAS, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q You are a police officer? A Yes.

Q Of the Police Department of the City of Newark? A Yes.

Q How long have you been on the force? A Going on to sixteen years.

Q Did you see the defendant, Little Joe Juliano, on October 16th and 17th of this year? A Yes.

Q Did he tell you that on July 18th the day—

Mr. Kavanagh: I object, not proper rebuttal.

The Court: Why?

Mr. Bigelow: On page 996 we asked Juliano that question.

Mr. Kavanagh: Finish your question.

Q Did he tell you that on July 19th, the day of this hold-up, he was working driving a truck in Harrison, New Jersey? A He did.

Q In 1920, what beat were you attached to? A I was attached to the Second Precinct.

Q Did you know the defendants Little Joe Juliano and Big Joe Juliano by sight at that time? A I knew Big Joe Juliano by sight and by name and I knew Little Joe Juliano by sight.

Q And at that time, did you ever see these two men together? A I did, numerous times.

Mr. McGeehan: I object. It is too remote and not evidential of anything.

The Court: No, I take it the only association that either one has testified was merely a passing "How do you do."

Mr. McGeehan: Yes, and that on one occasion, they rode together downtown in a car sometime in October of this year and knew each other at the time casually. The testimony is they never went around together and never hung out together but there would be no rebuttal by the State if they knew each other and testified to several conversations.

The Court: I do not know what the quesion is yet.

A Numerous times.

The Court: Well, if that is all, I will sustain the objection.

Defendants' counsel prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEALED) Judge.

Mr. Bigelow: In our main case, we attempted to show that these men acted in concert. The defense contradicts that, and has sought to prove that these men scarcely knew each other. It seems to me it is proper rebuttal to show that they frequently were together at the same resorts. Now, the witness has said he saw them together on numerous occasions. I was then going to ask him where he saw them.

The Court: Well, I will allow you to follow it up.



Q Where did you see these two men together? A I saw them in a restaurant on 8th avenue opposite Boyden street, the rear room of which a card game was in progress most every night. I saw them on Drift street in a place where Juliano used to be interested in. I believe those two places are the only two places I ever saw them together.

Q And you saw them together on numerous occasions at those two places? A Numerous occasions.

Q Were you a patrolman in those days? A I was a patrolman attached to the precinct in those days. I had just been transferred.

Q And was it part of your duty to go into those places? A Our instructions were to visit these places, restaurants, coffee houses and pool rooms and report on conditions found.

*Cross examination* by Mr. Kavanagh.

Q When were you a patrolman? A When?

Q Yes. A I have been a patrolman since I have been appointed, but I have had special details. I have been a plainclothesman for a number of years, and in 1919 I was transferred to the Second Precinct to do patrol duty in uniform.

Q So these occasions you testified to you saw Little Joe Juliano in the presence of Big Joe Juliano dates way back to 1919? A 1920, when I was to the Second Precinct, in that part of the city.

Q About six years ago or more, is that right? A About six years, yes.

Q You have not seen them together within the last six years, have you, at no place? A Why, no, my work is in a different part of the city now.

Q So that the only time you say you saw them together was about six years ago? A In the year of 1920.

Q Are you sure that it was Little Joe Juliano? A I am positive it was he.

Q What makes you positive? A Well, I know him by sight and seen him around every night, and you wouldn't forget a face very easy.

Q Will you tell what month that was in 1919 you say you saw him? A It was not 1919.

Q Why did you say it was not in 1919? A Because I know it was not.

Q Why do you say it wasn't 1919? A Because I know it wasn't.

Q How do you fix the date as 1920? A The 17th of December, 1919, I was transferred to the Second Precinct and for a period of two weeks, about, I was sent out on post in plain clothes because I did not have a uniform, and around the first of the year I got my uniform and I was assigned to a regular post on a squad, which included this territory where these two places were located.

Q Did you ever speak to Little Joe on these occasions you say you saw him with the other man, Big Joe? A I don't think I have, no, sir.

Q Now, when did you see him on Drift street, about the same time in 1919? A About the same time, yes, sir.

Q Did you ever speak to him on these occasions? A I never spoke to him, I spoke to Big Joe.

Q You never knew him to speak to? A No, I didn't know him to speak to.

Q You never had any occasion to speak to him on these particular occasions about six years ago when you say you saw him with Big Joe? A No, sir.



Q Now, you say that Little Joe told you that on July 19th he was driving a truck in Harrison, is that right? A Yes, sir.

Q Where did he tell you that? A He told me that in Police Headquarters after he was taken into custody. I was with him constantly for a period of six or seven hours.

Q Did you arrest him? A I was one that was there when he was arrested.

Q And after you arrested him you took him to headquarters, is that right? A We did.

Q Did you have a conversation with him? A I had a conversation with him as I say, for this period of six or seven hours.

Q You talked to him for six or seven hours? A Yes, sir.

Q Who was present at that time? A Just him and I.

Q You and he alone? A Yes, sir.

Q Where did this conversation take place, in some room at headquarters? A In a room that is called the night detective bureau.

Q And you asked him some questions, didn't you? A Numerous.

Q What did you say to him? A I asked him did he know Bobbie Boudreau and he said, "No." I asked him did he know Bobbie's wife, and he said, "No." I said "Do you know a girl named Chille?" and he said, "No." "Do you know a girl named Gertie Delaney?" "No."; "Do you know Anna?" "No"; "Did you ever live up in 16 Ogden street?" "No"; "Where do you live?" "In Aqueduct alley"; That is where we took him out of, of course. "Do you ever go to Scranton week-ends?" "Yes." "You got a girl up there, ain't you?" "Yes." "Are you married?" "Yes." "How many times are you

married?'' He told me he was married three times, his first wife had died, his second wife had divorced him and this is his third wife. So, after denying knowing all these people later on he was shown these different people whom I have mentioned and he admitted then that he knew them, and this girl Chille that I talked to him about.

Mr. Bigelow: It does not seem to me, your Honor, that this is proper cross examination.

The Court: Except he stated that Little Joe said he drove a truck and he was asked ''Was anything else said.''

Q When did you put these questions to him as to where he was on the 19th of July? A Why, about a half hour after he came in.

Q Did you question him as you state you did a minute ago before this? A No, sir.

Q What else did he tell you about his whereabouts on the 19th of July, Mr. Thomas? A He said that he was over in Harrison driving a truck. Well, I said,''You haven't been working, we know you haven't been working.'' ''Well,'' he said, ''If I was not over there I was driving a laundry wagon for a friend of mine.''

Q Well, he told you he had been in Morristown that day, didn't he? A No, sir.

Q Did you ask him if he had been in Morristown? A No, sir.

Q Well, he mentioned it to you that he had been in Morristown? A No, sir.

Q Do you mean to tell this court and jury that he did not tell you about his presence in Morristown on week-ends? A I certainly do, he didn't mention it to me.

Q Did you ask him where his wife lived at that time? A I did not—yes, pardon me, I did.



Q You did? A Yes, sir.

Q And did he tell you where she lived? A He said with his mother.

Q Didn't he tell you that his wife lived in Morristown and that he was in the habit of going to visit his wife on week-ends? A No, sir.

Q Are you sure of that? A Positive.

*Cross examination* by Mr. McGeehan.

Q You have been working on this case quite constantly during the last several months, haven't you? A Since about October 14th.

Q That is since the time of the arrest of the defendants? A Possibly a week before that.

Q Now, you had, during that period of five or six weeks, been working with twenty or thirty other detectives on the case, haven't you? A No, sir.

Q How many? A I will say about five.

Q Five constantly assigned to it? A Well, five who have made the major part of the investigation.

Q You are sure there weren't six who did work on it?

Mr. Bigelow: I object to that as not proper cross examination.

Mr. McGeehan: Question withdrawn.

Q Now, you have been endeavoring to get evidence to show that Young Joe Juliano and Joseph Juliano associated together in the past, is that right?

Mr. Bigelow: I object. The only evidence that this witness has given affecting any of the defendants except Young Joe Jul-

iano, whose counsel has just finished cross examination, was that in 1920 he saw these two men together or different occasions.

Mr. McGeehan: That is the only thing I am interested in and directing this question to.

The Court: I will allow this question.

Q (Question read.) A No.

Q But you have not been trying to get such evidence? A No. I know it to be a fact.

Q But you have not tried to get any such evidence working on this case, do you mean to say that? A No, I know it to be a fact.

Q I am coming to what you have just testified to.

The Court: He just answered it no.

Q So you have not tried to get any such evidence?

Mr. Bigelow: I object. He has answered it three times.

The Court: Sustain the objection.

Q You do not know of anyone else trying to get such evidence? A What evidence?

Q Evidence that Young Joe Juliano and Joe Juliano associated together? A The prosecutor has the evidence.

Q And what is your evidence? A That is my evidence.

Q I am asking you if you heard before, did you not, the day that Joseph Juliano testified that he was a distant relative of, and knew Young Joe Juliano, but never went out with



him, never associated with him, never hung out with him, didn't you? A I heard him say that, yes.

Q You have been working on this case? A Yes.

Q And the only time that you know that these defendants, Young Joe Juliano or Joseph Juliano, ever associated together was back in 1920, is that right? A That is the time that I saw them together.

Q Yes, six years ago? A Yes.

Q And you were the officer on the beat, is that right? A Yes.

Q You were only one of the officers on that beat? A I was one, and I had a partner with me.

Q Who is the partner? A Well, he is—do you want to know where he is?

Q I asked you who he is? A His name is Hothn.

Q And who else—they are shifting squads in the precincts. A The squads alternate. One week they are on this side of 7th avenue and the next week they are on the other side, but those two particular posts are taken care of by three different squads of men.

Q So there would be three different men attached to those posts at certain times during the week? A No, there would be two men together and the next week two other men.

Q So there would be four men. Who else covered that post? A I do not recall.

Q And there was a sergeant or roundsman who checked up that beat? A Yes, five or six sergeants.

Q Five or six sergeants who would check up on the patrolmen? A Yes.

Q Do you know who the sergeants were? A I cannot recall their names.

Q Then there was plain clothes men, wasn't there, through the Italian districts in the city? A Yes.

Q Who were they in 1920? A Well, a fellow McCauley and Anderson nights.

Q And then there is a man in addition to all six officers someone on day duty who patrols that section? A Every day a different man.

Q So a lot of different men from the precinct also patroled through there in 1920? A In the daytime, yes.

Q And that same general duty of police duty has gone on during six years since that? A I do not know what system they have now.

Q Oh, the same system throughout the city? A I presume it is.

Q Well, you know it? A I do not know it as a fact.

Q Well, don't you know that the rules of the police department as to one policeman apply to another one?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q So far as you know, there have been hundreds of men in that ward in that section since you? A Yes.

Q Now, you say you know Joe Juliano to talk to? A Yes.

Q And you talked to him, didn't you? A Yes.

Q And you say that there was a card game in the rear of that restaurant on 8th avenue? A Yes.



Q And for how long a period did you know there was a card game in the rear of the restaurant? A How long a period did I know?

Q Yes. A I knew it the first night I went on that post.

Q How long did you continue to know it? A Well, I reported it every tour of duty. I reported the place suspected of being a gambling house.

Q And how long a period did you know there was a card game going on in the rear of that restaurant? A A year or more.

Q And during that time you saw Joseph Juliano there, did you? A I did.

Q Did you know, as a matter of fact, that that was closed in the early part of 1920? A It was not.

Q Sure it was not? A I am positive.

Q Was it closed at all while you were on that post? A It was not closed while I was in that precinct.

Q You are a pretty good friend of Joseph Juliano? A What do you mean?

Q A pretty good friend of Joe Juliano? A No.

Q You know him to talk to? A Yes.

Q Were you ever back there when they were playing cards? A Yes.

Q And you would talk to him then? A Yes.

Q A lot of people in there at times? A Yes.

Q How many? A Well, some nights a dozen or fifteen.

Q Twenty? A Well, I wouldn't say twenty, because the room was very small.

Q And you used to see them playing? A I used to see him playing cards, yes.

Q You used to see him standing around? A No, every time I seen him he would be playing.

Q And what you are referring to is on several occasions you say you also saw in that same place Young Joe Juliano? A I did.

Q And how old was he at that time, how old do you think he was? A Well, he was around nineteen or twenty maybe.

Q And you also saw many other youths there in that neighborhood in and around this place, haven't you? A I did.

Q And those are the only occasions that you saw him, is that right? A What do you mean?

Q The only occasions that you saw him in this restaurant. A Little Joe and Big Joe?

Q Yes. A I saw them there and I saw them up in Drift street in Joe's place that he used to run.

Q Who else did you see there besides Big Joe Juliano and Little Joe Juliano? A I saw Brownie in there lots of times.

Q Did you see him with Little Joe? A Well, I wouldn't say they were together, I saw them in the same place.

Q You wouldn't say that Little Joe and Big Joe were together except that they were in the same place? A Well, no, I know Big Joe and Brownie used to play cards together.

Q I am asking you whether you would say Big Joe and Little Joe were together beyond the fact that they were in the same place? A They were in there playing cards.

Q Were there fifteen or twenty other people? A I wouldn't say fifteen or twenty, a dozen, a couple standing around and maybe six or seven playing.



Q You never saw them riding in an automobile together, did you? A No, I did not.

Q You never saw them walking the streets together? A Well, I know they have left the place together.

Q You mean after the game was over? A After the place had been closed, yes, sir.

Q And when everybody leaves? A Well, they would walk up the street.

Q That is the only association you know of, isn't that, between them? A That's all.

The Court: How long have you been away from there, officer?

Witness: I left the second precinct in 1921; I think it was in January.

*Re-direct examination* by Mr. Bigelow.

Q You mention the name Brownie in reply to one of Mr. McGeehan's questions. A Yes, Ruggerio.

Q Is he the man who stood up here? A The man with the glasses.

*Re-cross examination* by Mr. McGeehan.

Q And his name was Brownie? A That was his nickname, Brownie.

Q Now, aren't you confusing two people who stood up in this courtroom, one pointed out by the prosecutor yesterday, Brownie O'Connor, and isn't it a fact that Ruggerio, who is here, is known as Pete Rogers or Pete Ruggerio? A Peter Rogers and Pete Ruggerio, his nickname is Brownie, they used to call him Brownie and he was a frequenter of that same place.

Q Now, officer, are you sure of that? A I am positive, I never saw this Brownie O'Connor before.

Q Now, isn't it a fact that there was a man brought down here from the penitentiary known as Brownie Ruggerio who is not Pete Rogers? A I don't know.

Mr. Bigelow: I object to this.

The Court: Sustained.

Q Do you know Brownie Ruggerio to be the same man as Pete Ruggerio or a different man? A Brownie Ruggerio, that is the man who has been here in court with the glasses on, his nickname is Brownie and his name is Ruggerio and he is known as Pete Rogers.

Q Do you know Brownie Ruggerio who was brought here from the penitentiary and who may be in the courtroom now, whose name is not Pete and he never was called Pete?

Mr. Bigelow: I object to that.

The Court: Sustained.

Q Do you know a Brownie Ruggerio brought down from the penitentiary to here? A I don't know.

Q Don't you know that? A No, sir.

Q Do you see anyone in this courtroom that you know was Brownie Ruggerio? A No, I don't know any other Brownie Ruggerio outside of the one with the glasses on.

Q Now, will you point out the one which you think is Brownie Ruggerio? A Which one?

Q The one that you think is Brownie Ruggerio? A I do not see him in here now; he has got a pair of dark smoked glasses on.



Q And you saw him here in court here the other day? A Yes, and I would know him without the glasses, too.

Q Now, isn't it a fact that Pete Ruggerio is the man who was in here yesterday and who wore dark glasses and that he has a brother whose name is Brownie? A I don't know.

Q You don't know that? A No, sir.

Q And isn't it a fact in addition to Peter Rogers and a man named Brownie Ruggerio that there is a Brownie O'Connor who is at the penitentiary? A I don't know.

Q You don't know that? A No, sir.

Q And isn't it a fact that you said the man you saw with dark glasses on was called Brownie Ruggerio because you heard the name "Brownie" in the courtroom here a good deal associated with Boudreau? A I did not, I know him as Brownie when he hung out in the same place as Big Joe.

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

Q And you are sure it is not Pete Ruggerio's brother Brownie? A I know that he is called Brownie.

Q You knew Brownie Ruggerio, didn't you? A I knew this fellow who has dark glasses on as Brownie.

Q You knew Brownie Ruggerio, didn't you? A I knew a fellow named Ruggerio, whose name was Brownie.

Q Then, your answer is yes.

The Court: Yes, he said he knows a fellow by that name.

Q Your answer to that is yes?

Mr. Bigelow: I object. He has answered the question in his own way and perfectly properly.

Q Now, this Brownie Ruggerio that you knew you say is the same man you saw in here with dark glasses on the other day?

Mr. Bigelow: I object. The witness has answered that six times.

The Court: Mr. McGeehan, he has already answered that.

Q You are sure that Brownie Ruggerio is not the brother of Pete Rogers? A I am not sure, I don't know whether he is or not.

Q Then, if you are not sure, you are not sure whether the man you saw here the other day is Brownie Ruggerio? A That man I saw with the glasses here the other day is a man known to me by the nickname of Brownie Ruggerio, and I know his name is Ruggerio, Big Joe knows him.

Q Do you know anyone else who was known as Brownie Ruggerio? A That was his nickname in them days.

Q And you don't know if the Brownie you knew had a brother by the name of Pete? A I don't know whether he has a brother or not.

Q Didn't you work on two separate cases in the last few years of two separate men, Brownie and Pete Ruggerio in criminal prosecutions in this court?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi



prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q And are you sure that the Brownie Ruggerio that you speak of did not have as a first name, Frank Rigerio?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

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MYRTLE FOSTER, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q In September of this year, did Little Joe Juliano say something to you about the Reid hold-up? A He did.

Q What did he say? A He said he was—

Mr. Kavanagh: I object. Not proper rebuttal.

The Court: When would you rebutt a statement made by the defendant?

Mr. Kavanagh: As far as I can see, there is no legal foundation laid.

The Court: Do you know what the question is? I don't. I have not heard it.

Mr. Kavanagh: I heard part of it, and I thought it was highly objectionable and objected at the time.

The Court: Wait until the question is asked.

Mr. Bigelow: I do not find the question here, but I think I can recall it word for word, and I will try, at any rate.

Q Did the defendant, Little Joe Juliano say to you, speaking of the Reid hold-up, "I was the man that stood on the running board and told the girls to stick their heads in or I would fill them full of lead."

Mr. Kavanagh: I object on the ground that a proper foundation has not been laid for that question.

The Court: As I remember the testimony, Little Joe was asked—he walked into a room and he said, "Stick 'em up," and then he said, in substance, "I am the one who said to the girls looking out of the window, 'I will fill you full of lead.'"

Mr. Kavanagh: I do not recall any question of that kind or any answer.

The Court: Is that the time you refer to?

Mr. Bigelow: Yes, sir.

The Court: That is my recollection of the episode. I have not the testimony before me.

Mr. Kavanagh: I do not recall it.



Mr. Bigelow: Well, may I recall this witness—withdraw this witness to look it up further?

The Court: Yes.

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ALFRED T. HARRIS, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q Mr. Harris, where do you live? A Dover.

Q New Jersey? A Yes.

Q During the summer or part of the summer of this year, did you make observation as to the weather in Dover? A I did.

Q During what period of the summer? A Just the day of July the 19th.

Q Just July 19th? A Yes.

Q How did you come to make observations of the weather on that day? A Well, my brother is the observer—that is, the state observer—and he went away that Sunday, and he told me to take care of the weather for that day.

Q So you made the observations that day? A Yes.

Q Will you tell the jury what the weather was with as much detail as you can on that day? A Well, I remember the day very well, because it happened to be the week later the explosion at Kittatiny, Lake Denmark, and the following Sunday I had permission to go up to the grounds.

Q Well, you tell us about the weather on the 19th. A Well, in the morning I left and it was a very clear day. I took a camera along

with me and expected to take some pictures, and ten o'clock it became cloudy and about 11:20 we had a thunder shower, which lasted until a little after twelve, and the rest of the day, that is, up to four o'clock I remained in Dover, and it was cloudy and threatening, and I went to East Orange—I left Dover at four o'clock and at 5:30 in East Orange clouds occurred in the northwest and there was severe wind, but no rain until about a quarter to six, and then we had a very heavy shower accompanied by hail and wind, and that storm continued until about nine o'clock and then abated and I left for home.

Q Now, what date is this you are referring to, what day of the week? A That was on a Sunday.

Q You are sure that was a Sunday? A Yes.

Q Well, Sundays in July, in the middle of July were the 11th, 18th and 25th.

Mr. McGeehan: I object to that as quite leading.

The Court: I will allow that.

A I may be wrong there. It was the 18th.

The Court: You are referring to a Sunday, are you?

Witness: It was on a Sunday, it was the 18th. The explosion was on the 10th of July, which is a Saturday afternoon.

Q It was not the day following the 10th? A Oh, no, a week later. The day following the explosion was going on all day.

Q Did you observe the weather on a Monday, the 19th? A I did not.



Q Now, you said something about an explosion on the 10th? A Yes, sir.

Q Were you in Dover on that day? A I was.

Q Could the explosion be felt in Dover? A Yes, sir.

Q And this occurred several miles away? A About six miles away.

Q But you could feel it in Dover? A Yes, sir.

Q This was a severe explosion? A Yes, sir.

Q About what time of the day did it occur? A 5:20 in the afternoon.

Q Do you recall what caused the explosion? A Well, one of the magazines was struck by lightning.

Q Was there a storm that afternoon? A There was.

Q Did that explosion have any effect on traffic in and about Dover that evening or the following day or so? A Yes—about Dover?

Q I say did it have any effect on traffic in and about Dover? A It did beyond Dover, but not up to Dover, not on that Saturday. A week later the traffic was blocked off.

Q Do you drive a car? A I do.

Mr. McGeehan: No cross examination.

*Cross examination* by Mr. Kavanagh.

Q How far away from Dover did this explosion occur? A By the road six miles, straight across about five, I should judge.

Q About five or six miles to the west of Dover? A Northwest.

The Court: Mr. Bigelow: I don't know whether you found the reference or not, but

this man being a party to the suit it is not necessary to lay a foundation as to anything he said.

Mr. Bigelow: Mr. Fisch has found the record, it is in the direct testimony of Mr. Juliano at page 963. Do you find it, Mr. Kavanagh.

Mr. Kavanagh: Which question do you refer to?

Mr. Bigelow: "Did you ever make any remarks to her in the presence of Boudreau or anyone else at any time subsequent to July 19th that you participated in the Reid hold-up and stood on the car flourishing a revolver?" and, "Did you ever mention anything about any participation by you in the hold-up or the flourishing of a revolver to any one at any time, at any place or on any occasion?"

Mr. Kavanagh: That refers to the girl Kathleen Daniels. The reference is to Kathleen Daniels, you will see it, if you read at the end of the page 962.

Mr. Bigelow: But on the other page, Mr. Kavanagh it says, "Do you know a woman named Myrtle?" and then it follows on and the question "Did you ever make any remarks to her?"

Mr. Kavanagh: I will withdraw the objection.

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MYRTLE FOSTER, recalled.

*By Mr. Bigelow.*

Q Did Joe Juliano make a remark to you at a time subsequent to July 19th that he participated in the Reid hold-up and stood on the car flourishing a revolver?

Mr. Kavanagh: I object to that, if the Court please, unless the date is more definitely fixed.

Mr. Bigelow: I will fix the date.

Q About the middle of September? A He did.

Mr. Kavanagh: No cross examination.

*Cross examination* by Mr. McGeehan.

Q Were you in an automobile with Boudreau and young Joe Juliano and a girl named Chille up around where the jitneys start in North Newark—

Mr. Bigelow: I object to that as not proper cross examination.

The Court: Sustained. Mr. McGeehan, there was only one question asked on rebuttal.

Mr. McGeehan: This is not proper cross examination, I admit.

The Court: Well, then that is the end of your question.

Mr. McGeehan: (Continuing.) And I want to be given the opportunity to either question this woman on the stand or to question

her this noontime because if she knows something about this case—

The Court: If this witness has testimony which you would like to use you can call her in sur-rebuttal, if you see fit, or I will permit you to reopen your case.

Mr. Bigelow: We will be glad to arrange it during lunch recess, so that Mr. McGeehan can speak to her.

Mr. McGeehan: You see this witness has been in custody—

Mr. Bigelow: Oh, no, she was in the hospital with child—

Mr. Kavanagh: You know that you did not meet Little Joe Juliano until about the middle of September of this year, isn't that a fact?

Witness: I met him the first of September.

Mr. Kavanagh: The first of September?

Witness: Yes, it was the beginning of September.

*Cross examination* by Mr. Kavanagh.

Q Do you know that you did not meet Little Joe Juliano until the middle of September, this year? A I met him the first of September. It was the beginning of September.

Q And you are sure it was not the middle of September? A I am positive.

Q What makes you so positive? A Because when he came up to live at our house, it was about the 8th of September.

Q You know, Miss Foster, that your alleged husband, Boudreau, introduced Little Joe Juliano to you, isn't that right? A He did not.



Q What? A He did not.

Q He did not? A No.

Q Well, how did you come to know Little Joe Juliano? A Through Chillie.

Q How? A Through Chillie.

Q Through Chillie? A Yes.

Q And when Chillie introduced you to him, she introduced him to you at 16 Ogden street, isn't that right? A She did.

Q And that was about the 10th of September, wasn't it? A No, sir.

Q You never met Little Joe Juliano before Chillie introduced you to him, did you? A No.

Mr. Bigelow: I object.

The Court: I will allow this.

Q Are you sure that it was not the 10th of September? A I am positive it was not.

Q What makes you so certain that it was the first of September? A Well, because he come to live to our house about the 8th of September.

Q He came to live at your house about the 8th? A Yes.

Q Don't you know, as a matter of fact, that he did not come to live at your house until about two weeks after the first time you were introduced to him? A Why, certainly it was before the first of September I met him. It was around the last of August.

Q Well, do you know the day? A I do not know the day.

Q Well, why do you say it was around the first of September? A Well, it was around the first of September.

Q It could not have been the middle of September? A No, it couldn't.

*Anson N. Beckwith, direct.*

Q You do not think you are mistaken about the particular date in September when you met him? A I am not.

Q Eh? A I am not.

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ANSON N. BECKWITH, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q You are a member of the police department of the town of Morristown? A I am.

Q And you were a member of that department in July of this year? A I was.

Q Do you recall July 10th, 1926? A Yes, I do.

Q What, if anything, occurred on that day to make it memorable? A A terrific explosion and practically the entire demolition of the United States Power Depot at Lake Denmark.

Q Were you in Morristown at the time of the explosion? A Yes.

Q Well, the explosion could not be felt in Morristown, could it? A Yes.

Q That is ten miles from Lake Denmark? A Further than that.

Q Further than that and still you could feel the explosion? A Yes.

Q What effect did that have on traffic, if you recall? A You mean on the 10th?

Q On the 10th and the days subsequent? A About three and a half hours after the first explosion, traffic became very congested.

Q Traffic going to and from where? A Going toward Dover.



*Anson N. Beckwith, cross.*

Q Toward the area of the explosion? A Yes.

Q And were any measures taken because of that situation? A Yes. We had orders issued to us—to the officers on post at five o'clock on Sunday morning, the 11th, to detour all traffic going from this sectioin of the State over the Pine Brook road and allow no one to proceed to Rockaway or Dover unless it was a bona fide relief worker.

Q How long did those orders remain into effect? A Until approximately Monday afternoon.

*Cross examination* by Mr. Kavanagh.

Q How far is Lake Denmark from Morristown? A I would say approximately 16 miles.

Q How far is it from Dover? A About five or six.

Q In what direction? A Not knowing the exact points of the compass from Dover to Lake Denmark, I would hesitate to say.

Q Would you say it is ten miles from Lake Denmark to Dover? A No, whichever direction it is, it is not more than five or six.

Q Do you know, as a matter of fact, what the correct distance is from Dover? A I do not quite get the drift of your question.

Q Do you know how many roads there are leading from Morristown to Dover? A Yes.

Q How many are there? A There are two main highways.

Q How many other side roads, back roads? A By a round about way, there are probably two or three others.

Q There are at least five others, aren't there, back roads, besides the main highways? A There may be five.

Q You were stationed in Morristown all the time, weren't you? A No, sir.

Q Where were you stationed on the day of the explosion? A In Morristown.

Q Do you know what time the explosion occurred? A Between 5:20 and 5:25 P. M.

Q In the evening? A Yes, sir.

Q So that anyone proceeding to Dover or points west or north of Dover from Morristown to any other point east of Morristown could have been in Dover prior to the time of that explosion, is that right? A Yes, sir.

Q The roads were not blockaded, or traffic was not stopped before the explosion occurred at 5:20, were they? A No, sir.

Mr. McGeehan: No questions.

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WILLIAM WEINER, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Fisch.

Q Professor Weiner, you are the principal of Central High School, are you? A I am.

Q And are also the official weather observer of this locality for the United States Government? A I am.

Q And as such you keep a record of the weather in Newark? A I do.

Q And did you keep such a record in July of this year? A I did.



Q By the way, how long have you been the official weather observer? A Since 1906.

Q And have you the records with you of the weather conditions in Newark on July 17th and July18th, 1926? A I have.

Q And those records are kept by you, are they? A They are.

Q And for what period do you take the records, what hours? A At seven o'clock, they are recorded for seven in the morning, at noon and at six and nine at night.

Q And what radius does your record cover your weather bureau record here in Newark? A About from twenty to twenty-five miles.

Q Now, referring to your records, if necessary, can you tell us whether or not it rained on the 17th of July? A It was a clear day.

Q That was on a Saturday? A That was on a Saturday.

Q Now, can you tell us whether or not it rained on the 18th of July? A It rained on the 18th.

Q At what time? A At two different periods; from 12:05 P. M. to 1:05 P. M. when it rained .2 inches and thunder showers all around us, and at 6:35 to 8:25 P. M. when it rained 1.56 inches, and thunder and lightning at that time.

Q That is 1.56 inches of rain fell between the hours of 6:05— A (Interrupting.) 6:35 and 8:25.

Q What would you say with regard to that storm? A Well, it was a very unusual storm; a very heavy storm.

Q What is the normal rainfall per month, Professor? A About four inches in a month.

Q In a whole month? A Yes, sir.

*William Weiner, cross.*

Q And about 1.54 inches of rainfall in that period of time that you have given us— A 1.56.

Q And how did that storm or rainfall on July 18th compare with similar storms during the summer? A It was one of the heaviest we have had.

*Cross examination* by Mr. McGeehan.

Q You have an instrument to record the quantity of rain, Mr. Weiner, have you? A Yes, a rain guage.

Q Where is that? A Situated on the roof of Central High School.

Q And when did you check up on that, for instance, on the 18th, when did you measure how much had fallen? A It measures itself.

Q It records itself? A It records itself and then it is checked up after the rain.

Q The storm began at 6:35, is that right? A Yes, sir

Q And it ended at 8:25? A Yes, sir.

Q And there was no more rain which fell at 8:25 at all? A No, sir.

Q Do you know the time before that when the rain, in ordinary language, let up? A I can tell that by a reference to the chart of that day.

Q Yes, when was the heaviest part of that rain fall? A There were—during that storm—there were three periods when it rained very heavily.

Q When was that? A I will have to give you the time. The heaviest—I will give you the time during those hours. Between 6:35 and 6:55 there had been a fall of about 63/100 of an inch.



*William Weiner, cross.*

Q Yes. A And then the next heavy interval was between 7 and 7:04. Then there were about 8/100 of an inch.

Q In four minutes? A Yes. And then the next, between 7:15 and 7:35 there were thirty-five—thirty-eight, there were 42/100 of an inch.

Q Between 7:15 and 7:35? A Yes. And then between 8:40—between 7:40 and 7:03 there were about 43/100 of an inch.

Q Between 7:40? A Between 7:40 and 8:03 there were about 43/100 of an inch.

Q Now, then, it was an intermittent storm up until eight o'clock, the heaviest rainfall was at that time? A These were different thunderbolts and then there was a little rain after that until the close of the storm.

Q Well, the last half hour of it was not so heavy, was it? A No. At the last twenty-five minutes of it it was not very heavy.

Q And in between 6:35 and 8 o'clock there were several thunder showers with heavy rain fall? A Yes.

Q This was on the 18th? A The 18th, the stormy day.

Q By the way, have you the record of the 19th there? A I have.

Q The 19th was a clear, sunny day, wasn't it? A The 19th was a clear, bright day.

Recess from one to two P. M.

AFTER RECESS

Continued pursuant to adjournment.

Present, counsel as before stated.

Mr. Bigelow: Your Honor, before recess Mr. McGeehan stated that he might desire to recall Myrtle Foster as his own witness, and to reopen the defense. I think if that is done it should be done now before we go further into rebuttal.

The Court: Yes.

MYRTLE FOSTER, recalled in behalf of defendants.

*Direct examination* by Mr. McGeehan.

Q Miss Foster, I interviewed you this noontime in the presence of Mr. Fisch, Assistant Prosecutor, and Mr. McKenna, Assistant Prosecutor, did I not? A Yes, you did.

Q And do you remember testifying, before you left the stand this morning, that you remembered being in an automobile with Chille, and Bob Boudreau and young Joe Juliano up around where the Passaic jitney starts, is that right? A I do.

Q Now, you did not know Chris Barone at that time, did you? A I did not.

Q Do you remember seeing him? A I do.

Q Where did he come from? A He was standing up there.

Q He was standing up there? A Yes, sir.

Q What did he do—who was sitting in the front of the car? A Chille was sitting in the front of the car.



Q And did he talk to Chille? A He put his hands over Chille's eyes.

Q He came alongside of the car and put his hands over Chille's eyes? A Yes, sir.

Q Is that right? A He did.

Q And then after that he went away? A No, he stood there and talked to Joe when Joe came over.

Q He talked to Joe, that is, young Joe Juliano? A Yes, sir.

Q And then he went away? A Well, they were talking there quite awhile and Joe started up the car and Mr. Barone went away.

Q Barone walked away? A Yes, sir.

Q That was some time in September, was it? A I believe it was on the 10th of September.

Q Around the 10th of September? A Yes, sir.

Q And at time did Boudreau talk to Barone at all? A He did not.

Q And he was sitting right in the car? A He was.

Q And after Barone walked away did Joe tell Boudreau that that was Chris Barone, Buck Joseph's brother? A He told him that was one of his gang and he was Buck Joseph's brother, Chris.

Q That is young Joe told Boudreau that, didn't he? A Yes, sir.

Q And he said to Boudreau that was Buck Joseph's brother Chris "who is one of my gang?" A First he said "That is one of the gang."

Q One of his gang, did he say? A Yes, sir.

The Court: What was it, "one of the gang" or "one of his gang?"

Witness: One of his gang.

*Cross examination* by Mr. Bigelow.

Q Did Barone and Joe have any conversation in a foreign language that you could not understand? A They did.

Q I don't suppose you know what language they were talking? A They were talking Italian.

Q You don't understand Italian? A I don't understand Italian.

Q Did they talk any English? A They said a few words in English.

Q Did they say anything , or either of them, in English about going to New York? A Joe asked Chris if he was going to New York and Chris said, "Yes," and Chris said, "Were you going," and Joe said, "Yes," that he would meet them, and Joe asked him if Big Joe was going and Chris said yes, Big Joe was going and that they would all meet down at the hang out.

*Re-direct examination* by Mr. McGeehan.

Q That was said in Italian or English? A That was said in English.

Q Now, you were sitting in court this morning, weren't you? A I was.

Q And you remember my speaking to you and questioning you in Mr. Fisch's and Mr. McKenna's presence? A I do.

Q And I asked you just what was said there, didn't I? A Well, I said I did not understand it, you asked me what Chille said.

Q And I asked you what was said, did I not? A No, sir.

Mr. Bigelow: Now, your Honor, this is Mr. McGeehan's own witness.



Q You were in court this morning on the stand and you took a seat right at the edge of the bench.

Mr. Bigelow: I object to this, this is Mr. McGeehan's own witness.

Mr. McGeehan: I understand that, but I can neutralize any testimony she gives.

The Court: You will have to claim surprise.

Mr. McGeehan: I do claim it.

The Court: All right, proceed.

Mr. McGeehan: That is the usual situation, your Honor.

Q Now, when you were sitting there, do you remember Mr. Shetsky walking past you like that and whispering something to you as he went by? A I do.

Q And you did not leave them? A No, sir, because I did not understand what he said.

Q He did not take you right out with him? A No.

Q And then do you remember this gentleman Mr. Goldberg.

Mr. Bigelow: I do not see how counsel can be surprised in regard to these matters that happened before adjournment.

The Court: No. Lead directly to the surprise.

Q Now, you didn't say anything about what you said here on Prosecutor Bigelow's examination to me before Mr. McKenna or Mr. Fisch? A You didn't ask that. You said that was all when I answered your question.

Q I asked you a number of questions. A You did not give me a chance to answer them.

Q Wasn't Mr. Fisch there and wasn't Mr. McKenna there? A You asked me one question and another right after it.

Q Weren't they there? A They were there, yes.

Q And when I went in there, you had six or seven detectives around you?

The Court: That is not the proper question on the theory of surprise.

Q And Mr. Corrigan was there, too, when I was questioning you? A He was.

Q Now, you didn't say anything at all about any further conversation except what you answered on my questions to you in court here?

Mr. Bigelow: I object. It seems to me if he wants to lay a foundation he should ask the question, "Didn't you say this or so and so."

The Court: Ask directly.

Mr. McGeehan: I don't want to. I want to cross examine her on it.

The Court: I will not let you.

Q Didn't I ask you just what was said there? A And I—

Q One minute.

The Court: Let her answer.

Q Did or didn't I ask you what was said there? A You asked me what was said when Chille was there. You said what was said at the beginning.



Q Did I ask you what was said while Chille was there? A You did. You asked me what was said.

Q Chille was there all the time? A Yes.

Q So if I asked you what was said while Chille was there, I asked you what was said while Young Joe Juliano and Boudreau and you were there? A You did.

Q Wasn't I sitting there ten or fifteen minutes writing down the things you said? A Yes. You would ask me one question and then write and then ask me another question.

Q But when I asked you what was said when Chille and the others were there, you didn't say what you said just now? A I do not remember saying it.

Q You did not say it? A I am not positive.

Q You are not positive? A I said they spoke in Italian.

Q You told me that? A I said they spoke in Italian.

Q Was Mr. Fisch there? A Mr. Fisch was there all the while.

Q Do you swear that you said in the presence of Mr. Fisch that there was any talk in Italian? A I did.

Q You are sure of that? A I said there was talk in Italian.

Q Well, did they say what you just told about in Italian? A No, sir. They said it in English.

Q Now, I asked you if you knew Chris, didn't I? A Yes.

Q And you said you did? A I said I did.

Q And I asked you what was said while all of them were there, didn't I? A Yes, you asked me what was said.

Q And I told you that I wanted you to tell the truth and nothing except the truth, didn't I? A Yes, you did.

Q And I told you I wanted you to tell just what occurred, and that I thought you looked like an honest girl on the witness stand? A You did.

Q And I asked you to tell the truth, didn't I? A You did.

Q And I asked you what was said there? A You did.

Q And you didn't say what you said about him talking about going to New York, did you? A Not that I remember.

Q Now, when I left you, Mr. Fisch stayed in the room with you? A He did.

Q Did he talk to you afterward? A Yes, he did.

Q Did he talk to you afterward about this? A He did.

Q And while he spoke to you afterwards, did he talk to you about the things Mr. Bigelow just asked you on cross examination, did he ask you about New York and all that? A Well, no. I told him about it. He didn't ask me nothing.

Q Well, why didn't you tell it when I was questioning you when we had Mr. McKenna and Mr. Corrigan there to hear what you were saying, why didn't you tell us then?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Counsel for Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to this ruling of the Court.



Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

Q Chris did not ride away from there with you people, did he? A He did not.

Q You had no appointment to meet him there, did you? A Not that I know of.

Q But he came up unexpectedly, didn't he? A Yes, sir.

Q How long at that time had you been living with Boudreau? A Since January 31st.

Q Since January 31st? A Yes, sir.

Q Did you go to New York to meet a man named George with Boudreau?

Mr. Bigelow: I object to that as immaterial.

The Court: Sustained.

Mr. McGeehan: I want to show the connection between this man George and Boudreau.

The Court: Mr. McGeehan, she is your own witness.

Mr. McGeehan: Yes, and as my witness I want to bring out some more things that we are endeavoring to bring out in our case.

The Court: Well, matters that are irrelevant to the issue are not going to be brought out.

Mr. McGeehan: I respectfully submit that this is relevant.

The Court: And I rule otherwise.

Counsel for defendants Louis Capozzi, Joseph Juliano, and Christopher Barone,

prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Q Now, you were a sweetheart of Brownie O'Connor, weren't you? A I was not.

Q Was Chille? A Chille knows him, yes.

Q Are you the young lady that went out west with Boudreau? A I am.

Q Did George go out west also with him? A He did.

Q And after you came back from out west sometime after Boudreau was arrested did Boudreau meet George in New York with you?

Mr. Bigelow: Objected to as immaterial.

The Court: Sustained.

Q Did you know that Boudreau engaged in and made his living in hold-ups?

Mr. Bigelow: I object.

The Court: Sustained. Mr. McGeehan, you know that that is not a proper question.

Mr. McGeehan: I don't know it—

The Court: Well, you do know it.

Mr. McGeehan: I insist your Honor that I don't know it is improper and having been overruled I ask an exception.

Counsel for defendants Louis Capozzi, Joseph Juliano, and Christopher Barone prays an exception to this ruling of the Court.



Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: You have been overruled on that question before.

Mr. McGeehan: No, your Honor, I have not. This is the first time I asked this witness that question.

The Court: I mean other witnesses, and I am now going to ask the jury to disregard any reference to any testimony such as this.

Mr. McGeehan: And I wish to state to your Honor—

The Court: You have your exception, Mr. McGeehan.

Mr. McGeehan: But I wish to answer your Honor's assertion—

The Court: You have your exception, Mr. McGeehan.

Mr. McGeehan: I have.

Q In going around with Boudreau did you meet and know a man named DePhilipps? A I did not.

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

Q Were you ever at the Firestone A. C. with Boudreau? A I did not.

*Cross examination* by Mr. Bigelow.

Q While you were at the City Hospital did you give birth to a baby? A I did.

Q A little boy? A Yes, sir.

Q He is about a month old now? A He is five weeks yesterday.

Q And he is getting on all right, I hope? A Yes, sir.

The Court: In response to Mr. McGeehan's question he said that he asked you to tell everything that you knew or something to that effect. Were questions asked specifically after that?

Witness: Yes, he asked me questions after that.

Mr. McGeehan: Do you remember what you just answered to the Court or that the stenographer did not get—do you know what answer you gave to the Court's question when you were turned toward him which the stenographer did not get?

Witness: I did not answer him.

The Court: She said something that I did not hear.

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JOSEPH LINARDUCCI, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q You are one of the county detectives of Essex county, New Jersey, Mr. Linarducci? A I am.

Q With the rank of lieutenant? A Yes.

Q How long have you been a county detective? A Ten years next February.

Q Did you have a conversation with Paul Smith at the Hotel Berwick about November 11th of this year? A I did.



Q Did you show him a picture of Big Joe Juliano? A I did. It was a group picture—a group photograph.

Q Do you know whether it was this photograph or a photograph like it, referring to S. 26 for identification? A Yes, this is the photograph.

(Photograph offered in evidence and marked Exhibit S. 26.)

Q Did you point out to him in particular the picture of Big Joe? A I did.

Q Now, did Paul Smith or, just a minute. Was Detective Kenny with you at this time? A He was.

Q Did Paul Smith tell you that he did not recognize that picture? A He did.

Q Did you look over with the witness Paul Smith on that occasion, or on any other occasion, when you talked to him prior to the trial, the book of bell boy entries? A We did.

Q Is this the book, Exhibit D. 15? A Yes.

Q Did you ask him about an item of outside service, and did he tell you that while it was on the book he did not remember anything about it? A He did.

Q Did he tell you and Mr. Kenny—by him I mean Paul Smith—that he took something out to the car on the outside, referring to the car of Big Joe? A He did not.

Q When you showed him the photograph, Exhibit S. 26, and asked him if he could identify Big Joe, did he, Paul Smith, point out Big Joe the figure of Big Joe in the photograph? A He didn't.

*Cross examination* by Mr. McGeehan.

Q I did not quite get when that was? A November 10th and 11th, four or five days before the beginning of this trial.

Q Now, you had this picture with you, did you? A Mr. Kenny had it in the folder.

Q Mr. Kenny had it with him? A Yes.

Q Was that the first time you went to speak to Paul Smith, or had you spoken to him before? A That was the first time I spoke to him.

Q You don't know whether Mr. Kenny or others spoke to him before? A Not to my knowledge.

Q You do not know what took place in the presence of them before you were present? A Not to my knowledge, but I asked Paul Smith a question and in response to the question he said he had not spoken to any police officers up to that time, he had not been approached in reference to this case.

Q He had not been approached? A Not up to that time.

Q You saw the entry in the bell-boy book at the time? A I didn't.

Q How did you locate that entry or did you know the defentant was there under the name of Thomas Jones that night? A From information I got the night before.

Q You knew that Juliano stopped there on the 18th? A I received that information from the clerk, Connor, the night before.

Q And you had the boy turn to the entry under that room number, is that right, in the bell-boy book? A Yes.

Q Now, did you make a note of what that contained? A I did not.



Q Do you remember what it contained? A I do.

Q Now, you have seen it here in court? A Yes.

Q It is the same now in its reading as it was then? A It is.

Q So that while it appears finger marked or perhaps appears rubbed and erased, there is no change in that? A I don't think so.

Q You know what I am referring to, the part that refers to room 402 in that book? A Yes.

Q Now, by the way, do you know whether that was pointed to when you questioned Paul Smith or your fingers put upon it? A No, I don't think I touched the book. I pointed to room 402. There were two entries on that page.

Q Well, you were questioning him about whether he brought any bag out? A Yes.

Q And in questioning him whether he brought a bag out, what did he tell you? A He told Detective Kenny and myself that he did not remember Big Joe Juliano stopping there.

Q He did not know the name Joe Juliano at all, did he? A I informed him that, pointing to Joe Juliano's picture, that Joe Juliano stopped there on the night of July 18th from information I had on the night before, and I wanted to know if he recognized him, and he said he didn't.

Q Now, isn't it a fact that when you questioned him, you first questioned him about whether he knew a man named Joe Juliano or a man named Thomas Jones? A Yes.

Q Didn't you ask him that first, before you showed him the pictures? A The first thing I did was to show him the picture.

Q Was it your practice, in questioning any witness as to whether he knew the defendant,

to show him a picture of this defendant, or some of them, and ask him if he recognized any of them?

Mr. Bigelow: I object to what the practice of Mr. Linarducci may be.

The Court: Sustained.

Q So that in trying to find out if this witness was the man whom you thought of as a possible witness in the case—he was that, wasn't he? A Yes, sir.

Q The man you thought of as a possible witness in the case; the first thing you would do to them would be to point to a picture of one of the defendants and say, "Do you recognize that man?"

Mr. Bigelow: I object to that.

The Court: Sustained.

Q The first thing you do to this prospective witness was to point to a picture of the defendant and say, "Here is a picture, do you recognize it?" A I did not.

Q You did that to him, didn't you? A I showed him the group picture and asked him if he recognized any of the subjects on that picture and he said he did not.

Q And this is a group picture containing a group picture of just the four defendants and Boudreau, is that right? A Yes, sir.

Q So, you would come to this prospective witness and show him that picture and you said to him, "Do you recognize any of the men there?" A Yes, sir.



Q And then you pointed specifically to Joseph Juliano? A Yes, later on in the conversation.

Q And you asked him if he recognized him? A Yes, sir.

Q And didn't he tell you in the conversation that he did recognize the picture but he did not know the name? A He did not.

Q Did you make any notes of this? A I did not.

Q Did you make any report of it? A I did.

Q Did you make a written report? A I did not.

Q So you are testifying entirely from your memory? A That's right.

Q And you made no notes? A I made no notes.

Q You were engaged in various features of this case, weren't you? A That's right.

Q He showed you the bell-boy book and the entry on room 402, didn't he? A Yes, sir.

Q And did he tell you he remembered carrying something out and wasn't sure just what it was, but thought it was a small or light bag? A He told me he did not remember checking out the people who occupied room 402 that night.

Q Didn't tell you that he remembered that? A No, sir.

Q Didn't he tell you that he remembered it, after you showed him the picture? A He did not.

Q By the way, did you subpoena him? A I did not.

Q To be a witness? A I did not.

Q Why didn't you subpoena him if he said he did not remember seeing that man there, after you showed him the picture of Big Joe Juliano? A Because he could give us no assistance in this case.

Q Weren't you trying to find out if it was true if the defendant Joseph Juliano stopped at the hotel that night and checked out the next day, isn't that what you were there for? A I will say yes, to part of that answer—to that question, rather.

Q Isn't it a fact that the reason you went there was to find out what evidence whether or not Joseph Juliano was the man that stayed in that room or not that night and checked out the next day? A I will repeat my answer, to the first part of that question, I will say yes.

Q What part do you say "yes" to? A To the point that you say he checked out at noon the next day.

Q Did you also find out then whether this defendant Joseph Juliano was the man who registered there? A Yes, sir.

Q Did you want to find out when he checked out? A I did; I found that he had stayed there that night.

Q You wanted to find that out, didn't you? A Yes, sir.

Q And you knew that Paul Smith was a bell boy on duty on the night of the 19th, didn't you? A Yes, I received that information.

Q From him and the records of the hotel, was it? A Well, I received the information the night before.

Q Well, whatever source you got it from you knew it? A Yes, sir.

Q And you knew that Paul Smith was on the night of the 18th and you knew he was on duty the whole morning of the 19th, didn't you? A Yes, sir.

Q And knowing that, if he said to you that he does not remember that man checking out and



did not see him, does not remember seeing him there at the hotel at all, why didn't you subpoena him to come here to testify to that? A Because I did not know that was going to be your defense.

Q Well, you knew that the truth might be the defense, didn't you?

The Court: Just a moment, now; we are not going into that.

Q If the man was there and the register showed that he was there didn't you know that that would be a question in this case? A I thought it might be.

Q What did you mean by saying that you did not know that was going to be our defense? A I had no personal knowledge that it was your defense.

Q No; but you had knowledge that there was some reason to believe that the defendant Juliano, under the name of Thomas Jones, stayed there that night and morning, didn't you? A I had received some information.

Q Yes, and having received that, why didn't you subpoena this young man, I ask you again, as a witness for you, if he said what you testified to on your direct examination?

Mr. Bigelow: I object to that.

The Court: Sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

The Court: The question has been answered.

Q Is that the only reason, that you did not know that was going to be our defense? A No, I did not know; I had no personal knowledge.

Q Is that the only answer you can give, and the only reason you give why you did not subpoena him, because you did not know it was going to be our defense? A No; because he could give us no assistance.

Q Because he could give you or the prosecutor no assistance? A No, and I thought he could give you no assistance.

Q You weren't trying to give me any assistance, any assistance for the defendants, were you?

Mr. Bigelow: Objected to as not proper cross examination.

Q Did you think he might? A Nor do I think he could give you any assistance, if you want it that way.

Q Well, you were not out to get any assistance for the defendants.

Mr. Bigelow: I submit—

The Court: Don't argue.

Q You did not think this witness could give any assistance? A Yes, nor could he give any assistance whatever.

Q Why, is it the fact that you decided he could not give any assistance when he recognized the picture and that that man checked out under his guidance on the morning of the 19th? A That is not the fact.



*Re-direct examination* by Mr. Bigelow.

Q Under the questioning of Mr. McGeehan you testified that you did not know Big Joe's defense would include a stop at the Berwick—I will withdraw the question.

*Re-cross examination* by Mr. McGeehan.

Q You talked to Connors before you ever saw this boy? A I did.

Q Didn't Connors tell you that he recognized the picture as that of Joseph Juliano who stopped there that night? A He did.

Q You didn't subpoena Connors, did you? A I didn't.

Q You didn't think he would help your case, either, did you? A No; I don't think he helped your case, either.

Q All right. The jury decides that. You did not like to see him here on either side? A It is not what I liked.

*Re-direct examination* by Mr. Bigelow.

Q Did Mr. Connors know when Juliano checked out? A He didn't.

Q As far as he could tell, Juliano might have been anywheres at ten o'clock on the morning of July 19th; is that the situation? A That is right. Connors did not remember checking him in, either.

*Re-cross examination* by Mr. McGeehan.

Q Did you see the record of the hotel checking him out on the 20th; did you see the record showing the room becoming vacant on the 20th? A No, there is no such record.

Q You did not subpoena any records from the Berwick? A I didn't.

Q And you looked at the telephone record there, didn't you? A I did, yes.

Q And you saw a 'phone call at 9:55 on the morning of the 19th from that room, didn't you? A I did.

Q You did not subpoena that either, did you? A I didn't.

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JOSEPH KENNY, recalled in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q Did you go to the Hotel Berwick on or about November 11th with Lieutenant Linarducci and see the bell hop Paul Smith? A I did.

Q And did you show him this photograph, Exhibit S. 26? A Yes.

Q And was the figure of Big Joe on that photograph pointed out to him? A It was, by Lieutenant Linarducci.

Q And did Smith say that he did not recognize that picture? A He did.

Q Was the bell hop record, which is in evidence as Exhibit D. 15, examined, looked at by you and Lieutenant Linarducci and Paul Smith and attention called to the entry of outside service and did Smith say that while it was on the book he did not remember anything about it? A He did.

Q Did Smith say that he took something out to the car on the outside, referring to Joe Juliano's car? A He said that he did not remember the people going out.





*Cross examination* by Mr. McGeehan.

Q There are some names written on that picture; is that right? A On the back.

Q They are numbered, number one, two, three, four, five, a number under each figure; is that right? A That is right.

Q You can see that from there? A Yes.

Q And on the back in large writing, No. 1, Nick Joseph Juliano, and two, three, four, five, each one's name is underneath? A It is on that picture.

Q Yes. That is what I am talking about, and do you know who put on here in lead pencil, "Left to right, Nick Juliano, Louis Capozzi, Chris Bar" and then stopped? A No, I don't.

Q Wasn't this picture in your possession at the hotel? A A picture something similar to that.

Q Well, wasn't this the picture that was at the hotel with you and Detective Linarducci? A I think it was similar to that.

Q Well, wouldn't you say this is the picture? A Well, a picture similar to that.

Q Well, take a look at it and see if that is the picture. A I did not have any personal mark on it.

The Court: You mean it was the same faces?

Witness: The same faces.

Q Was it the same writing on the back? A I would not be sure about the writing on the back, but it was the same picture.

Q Have you had charge of all the pictures in this case? A No.

Q I notice the picture of Mr. Condit has no name printed on it, or anything like that? A Well, let me see the back.

Q I will show it to you. A No, it has not.

Q And none of the other pictures in this case were marked with numbers and names on the back?

Mr. Bigelow: I object. It is remote—

The Court: Sustain the objection.

Q Isn't it a fact that you used these pictures with all the witnesses, with the names printed for the guidance of witnesses, when you first questioned them?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. McGeehan: It goes to the recollection of the witness as to what use he made of these pictures.

The Court: You may ask him what he did and what was said on this visit.

Q Now, on the visit that you made there did you show this young man—did you show him the picture first and point out Joe Juliano, and do it before you asked him whether you saw him or not



on a particular date? A Why, Lieutenant Linarducci questioned him pertaining to this Thomas Jones and wife on the register, and asked him if he recalled it and he said no, and then the picture was exhibited with the five men on the picture and he could not recognize anyone on the picture; then Linarducci said, "I call your attention to this man here," pointing, indicating to Joseph Juliano on the picture.

Q Now, he did ask him about Thomas Jones before he showed him the picture? A Yes; about the register.

Q. Did he ask him about the name Juliano before he showed him the picture? A Yes; I believe there was something about Juliano.

Q When he asked him the question whether he knew Thomas Jones or Juliano he told you "no," didn't he? A Yes, sir.

Q Then after that you showed him the picture, didn't you? A Yes, sir.

Q And when you showed him the picture didn't he then tell you that he remembered No. 4 on it, Joseph Juliano? A He did not remember anybody on the picture, Counsellor.

Q He did not tell you that? A No, sir, he did not; not any time in my presence did he remember anybody on the picture.

Q Now, you went over his books with him, didn't you? A I was standing there; Lieutenant Linarducci went over the books with him.

Q You were all questioning him, weren't you? A Yes, sir.

Q Did you make a trip up to the hotel and question him and the clerk of the hotel before you went there with the picture? A No, that was the first time I saw Smith that morning, I had not seen him before.

*Joseph Kenny, cross.*

Q You always carried a picture with you when you interview a prospective witness?

Mr. Bigelow: I object to that.

The Court: Sustained.

Mr. McGeehan: It goes to his recollection.

The Court: No; you might ask him whether he had this picture or not.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
Judge.

(SEAL)

Q Even though he told you right at the beginning that he did not remember this picture and did not remember this man and did not remember a single thing about that party—what made you go further and ask him if he remembered about taking a bag out of the room?

Mr. Fisch: I object to that; there is nothing upon which that question is based.

Mr. McGeehan: Question withdrawn.

Q After he told you that he did not remember that man, did not remember seeing him at all, what made you ask him additional questions such as whether he took the bag out when he checked out? A We were trying to refresh his mind to see if there was anything he might tell us pertaining to the man we were inquiring about.

Q You remember asking him about all these different things; is that right? A Yes, sir.



*James D. Bell, direct.*

Q And didn't you do that because he told you he had remembered the man? A No; he never remembered the man in my presence.

Q By the way, you have had him under questioning for five or six hours since he appeared as a witness in this court? A I saw him in the prosecutor's office.

Q You took him into custody after he left this court room as a witness, subpoenaed by the defense, and have retained him since?

Mr. Bigelow: I object.

The Court: Sustained.

Mr. McGeehan: I think the witness has stated that already.

Mr. Bigelow: If we went into that subject you would ask for a mistrial.

Mr. McGeehan: Well, the defendants would not grab any of the other side's witnesess and hold them in custody.

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JAMES D. BELL, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q You are a member of the Police Department of the City of Newark? A I am.

Q Of what rank? A Sergeant.

Q How long have you been a member of the police department? A Fifteen years, February 1st.

Q Did you and Sergeant Conlon see Vernon B. Shelters, who has been a witness in this case, about a month ago? A We did.

Q And did he tell you at that time he did not see Max Silverman on July 19th, but that he went direct to Bernardsville from his house? A He did.

*Cross examination* by Mr. McGeehan.

Q When was this, sergeant? A It was either October 25 or 26; it was either a Monday or a Tuesday.

Q Where was it? A At the Packard Motor Car Company on Central avenue.

Q And he was anxious to avoid testifying in this case, wasn't he?

The Court: Wasn't Mr. Shelters recalled and asked this question and he admitted that he told Sergeant Bell and Lieutenant Conlon the same thing that this witness is testifying about?

Mr. McGeehan: Yes, I think he did, and he gave explanatory matter concerning which I don't think it is necessary to go into on cross examination of this witness.

(Argument.)

Mr. McGeehan: In view of that I move to strike out the answer given on direct examination.

The Court: There seems to be no contradiction—I mean there is no necessity for a contradiction as to that.

Mr. Bigelow: Yes, and I consent to have it stricken out.

*Re-direct examination* by Mr. Bigelow.

Q At the time when you spoke to Mr. Shelters did you have before the three of you the Packard



records which have since been produced in court in regard to the sale of a car to Roma?

Mr. McGeehan: I object to that as extremely leading, and the prosecutor, while he may use the exact language in rebutting testimony, he makes this man a witness and he should not lead him to that extent.

The Court: Well, certain questions are permitted to be asked the witness, directed to a specific fact and they have to be leading. I will allow this question.

Q (Last question read.) A Not on that date.

Q Did Shelters have these papers before him at any time when you were questioning him?

Mr. McGeehan: I object to that.

The Court: I will sustain that objection.

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ROBERT W. ANDERSON, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q You are a member of the Police Department of the City of Newark? A I am.

Q How long have you been on the department? A Seven years, three months.

Q Did you interview or have a conversation with Mr. Osborne, one of the witnesses in this case, some time before this trial? A I did.

*Robert W. Anderson, cross.*

Q When was that? A July 19, 1926.

Q The day of the Reid hold-up? A The day of the Reid hold-up.

Q Did he tell you, referring to the Reid hold-up, that he heard the shots and got the license number, but that he could not see anything more? A He told me that he could not identify; that he did not see any of the men.

*Cross examination* by Mr. McGeehan.

Q Where did that take place? A That took place on the street in front of the Reid plant.

Q In front of the Reid plant? A Yes.

Q Or was it at the police box? A That was in front of the Reid plant.

Q Do you know how long that was after the hold-up had occurred? A That I cannot say exactly, how long after the hold-up occurred. I can only state from my time of arrival there.

Q What time was that, about? A I should say it was about ten minutes after we had arrived at the scene.

Q Well, can you tell us what time you got there? Can you remember? A I should judge about 10:20 or 10:25.

Q And it was some ten minutes after that that this conversation took place? A Yes.

Q And that was in front of the Reid place? A In front of the Reid plant.

Q You were not taking statements then? A No, not written statements.

Q You were getting names of witnesses, if you could, there? A We were seeking witnesses. I was seeking witnesses.

Q And getting names of witnesses? A Getting names of witnesses.



*Robert W. Anderson, cross.*

Q And you got the name of Mr. Osborne? A I did.

Q And put it down with his address? A I did.

Q Did he tell you that he had pursued the car? A He did not say that he had pursued the car.

Q Well, did he tell you that he had gone after the car? A At that time his statement was a continuation of Chief Lynch's conversation with me.

Q By the way, Chief Lynch said something about his chasing that car at the time? A He did.

Q He said he pursued it? A He did.

Q Did Osborne say and the chief say that he rode in the car with Osborne some time before you spoke to him? A The chief stated that he had just returned from a pursuit of the bandit car with Osborne.

Q And he said then that he rode with Osborne, didn't he? A He said that he had rode with Osborne.

Q And that you know to be so? A I believe it to be so.

Q Now, did he tell you that he got in the car with Osborne after Osborne returned from first pursuing the car? A Osborne stood by and heard that statement and never stated that he made a previous pursuit.

Q You did not ask him that? A It would be ridiculous to ask a man if he had made two pursuits.

Mr. McGeehan: I move that that be stricken out.

The Court: Answer the question.

A No, I didn't ask him if he made two pursuits.

Q How many names did you take that day? A I could not say how many, but the names of various witnesses.

Q You were pretty busy at that time? A We were preparing at that time to take a party to headquarters for identification.

Q At the time this conversation was had are you sure that Osborne said to you that he could not identify any of the men? A He positively did say that.

Q Did you make any note of that in writing? A I didn't.

Q Did you interview probably ten, twelve or fourteen people? A I did.

Q And none of them did you know personally? A I didn't.

Q You did not know one of their names except you took them down? A That is it.

Q And you were asking everyone what they saw and what occurred? A I did.

Q And you did not put anything down by way of statements or memorandum except the names and addresses of persons? A At that time I did not, because I was preparing a party of anyone who said they knew anything and was included in the party to go to headquarters.

Q Did they go? A They went right down from there.

Q And you included in that party those that said they could identify? A Yes.

Q How many were in that party that went down? A At that time I think there were eight or nine people taken to headquarters.

Q And do you know whether Osborne went down with you or not? A Osborne did not.

Q Did Chief Lynch go down? A He did not.



Q And you are testifying entirely from memory as to what occurred there, aren't you? A Why, memory, but it is very fresh in my mind.

Q My question is you are testifying entirely from memory? A I am testifying from memory in that respect.

Q Now, you subsequently saw Mr. Osborne a number of times? A I never saw Mr. Osborne until he was at the court house on a date in August.

Q Did you ever subpoena him? A I never did.

*Re-direct examination* by Mr. Bigelow.

Q You took down to headquarters in this party everybody that you thought from a brief questioning knew anything about the case? A Yes.

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GEORGE F. LYNCH, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Fisch.

Q You are a Deputy Chief of the Fire Department of Newark? A Yes, sir.

Q How long have you been connected with the Fire Department? A Going on twenty-seven years.

Q And have been deputy chief how long? A Two years.

Q On the morning of July 19th did you see Mr. Osborne, the witness who testified in this case? A Yes, sir.

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

Q Did you get into his automobile? A Yes, sir.

Q Did he give you some information with regard to the Reid hold-up? A Yes.

Q Did you ask him what kind of looking fellows they were and what way did they go? A Yes, sir.

Q And did he reply to you, "I did not see them, but someone in the crowd told me that they went up Mt. Pleasant avenue in the blue car No. 1926"? A He told me that, yes, sir.

Q Now, at any time while you were with him did he mention to you that he had chased the bandit car before you saw him? A He did not.

Q And did he tell you that he saw the men? A No, sir.

*Cross examination* by Mr. McGeehan.

Q You did not pursue that car, then, at all with it in sight, did you, chief? A Never saw the car.

Q Where were you when you first saw this man? A Mr. Osborne?

Q Yes. A At the corner or Broad and Clay conversing with Officer Farrell.

Q Is there a police box there? A Yes, sir.

Q Which way did he come? A He came up Clay street.

Q And when he got to the police box did he ask you to pull it? A No, sir.

Q Well, did you pull the box? A No, sir.

Q Who did? A Officer Farrell.

Q There was an officer standing there, wasn't there? A Yes, sir.

Q What was that officer's name? A Farrell.



Q Is he here? Do you see Mr. Farrell? A Yes, sir. That's him on the end there.

Q Now, Officer Farrell pulled the box, didn't he? A Officer Farrell opened the box; I took the receiver down.

Q That is you pulled the box, didn't you? A Yes, sir.

Q And that was to summon the police, wasn't it? A The lieutenant at the Second Precinct.

Q And it was Mr. Osborne who did that, wasn't it? A He did that.

Q And who came there and told you about it? A Mr. Osborne came there.

Q Up to that time you didn't know anything about it? A No, sir.

Q What made you ride in the car? Where did you ride to? A We were—in stepping into the car I asked him what kind of looking fellows they were and which way did they go.

Q What made you think he knew? A Well, because he just came from the scene of the hold-up he said.

Q Yes, he told you that, didn't he? A Yes; then I said, "Wait a minute," and I telephoned, and after telephoning I slammed the police box shut and stepped into his car and said, "What kind of looking fellows were they and which way did they go"?

Q You made a report of the kind of car this was, didn't you, chief? A Verbally; yes, sir.

Q You said it was a green Pierce-Arrow, didn't you? A No, sir.

Q Didn't you? A No, sir.

Q In your verbal report what did you say? A He said it was a green car No. 1926.

Q And you made a report based on that, didn't you? A Verbally.

Q I don't care whether it was verbal or written, but that was the report? A Yes, sir.

Q And it was based upon what Mr. Osborne had told you?

Mr. Fisch: I object to that, if the Court please. It doesn't make any difference what report Chief Lynch made.

The Court: Overruled.

Q Did you base it on what Mr. Osborne had told you; is that right? A Yes, sir.

Q And didn't you base that report on what he had told you because he told you he had seen and followed that car? A He didn't tell me he had seen and followed the car; he told me he did not see the car.

Q Isn't it a fact that you went with him to where he last saw the car? A No, sir.

Q Where did you go with him? A From Clay and Broad.

Q Up to where? A Up to Kearny and Belleville avenue.

Q Is Kearny avenue — A Kearny street.

Q Is Kearny street the other side of Fourth avenue? A It is.

Q Why did you go up to there? A We thought we could get some trace of the suspects of the hold-up.

Q Didn't you go there because he told you he had followed them to about that point? A No, sir.

Q Didn't you go there because he told you he knew they were last seen by him at that point? A No, sir.

Q What made you think that they went in that direction at all? A He told me that someone in the crowd had said the car went north on



Mt. Pleasant avenue and I figured I could cut them off if I go up Broad street.

Q After all the time that you turned around and phoned him the report and all that you thought you could cut them off? A Yes, sir.

Q Who told you that they turned west to cross Belleville avenue? A Nobody.

Q You just guessed that? A I used my own judgment on that.

Q Didn't you go there because he told you that he had followed them to that point? A No, sir.

Q And had seen them turn around? A No, sir.

Q You talked to a number of other people there that day? A After I came back from the hold-up. Not many.

Q Did Osborne tell you that he saw the shooting? A No, sir.

Q Did he tell you that he did not see the shooting? A He told me that he did not see the men.

Q Did he tell you that he did not see the shooting? A He didn't say anything about shooting, only that there was shooting.

Q He did not tell you that he had not seen it? A No.

Q Why didn't you ask him if he did not see the thing occur? A I asked him distinctly if he remembered what kind of men they were and which way they went and he said, "I didn't see the men, but someone in the crowd said they went up Mt. Pleasant avenue."

Q What made you ask him what kind of looking men they were unless he had told you previously that he saw what happened and saw the men? A He did not tell me previously.

Q What made you ask him what kind of looking men they were if you knew before that, and he had told you that he was just talking about what someone had said to him? A I wanted, for my own information, if I could trace the men, and asked him for his description and he replied that he could not describe them because he did not see them.

Q Did you ask him whether he saw the shooting or not? A No; I didn't ask him whether he saw the shooting or not. I asked him what kind of looking men they were and which way they went.

Q Did you ask him whether he saw the shooting or not? A No.

Mr. Bigelow: I object.

Q Did you ask him whether he saw the hold-up or not? A No.

Q Did you ask him what he saw of it? A No.

Q In all the time that you were with him, chief, you did not ask him those things? A No, sir.

Q And you were there for ten, fifteen or twenty minutes? A I was with him the length of time it took to go from Broad and Clay to Kearny and Belleville.

Q And you were excited at the time? A Yes.

Q And you walked back? A I got out of his car and walked to my home. I lived there.

Q Well, you did, after the telephone call was made, ride a couple of blocks and get in and get out? A Well, more than a couple. There is six blocks.

Q Well, all right, six blocks. Then you rode that distance? A Yes.



Q And keeping your eye open for them? A Yes.

Q And then got out of the car? A Yes.

Q Do you live up that way? A Yes; 2 Kearny street.

Q You dropped off somewheres near your home? A Yes.

Q Right at the corner where you live? A No.

Q Weren't you just getting a ride home? A No.

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EDWARD J. MANNING, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q You are a member of the Newark Police Department? A Yes.

Q And some letters on your collar attach you to the traffic— A Division.

Q How long have you been in the Police Department? A Two and a half years.

Q Do you know by sight the defendant Big Joe Juliano? A For about ten years.

Q Did you see him on July 19th of this year? A I did.

Q Where? A On Drift street.

Q When? A Five minutes to eleven.

Q What was he doing, if anything? A I was just returning—

Q What was he doing? A Well, he came up there in a car, a Cadillac car.

Q You saw him in a Cadillac car? A I did.

Q Did you see whether he was alone in the car? A He was not.

Q Was he with a man or a woman? A A man.

Q Did you see the car stop? A I did.

Q Where? A In front of 37 Drift street.

Q Did anyone get out of the car? A Yes, a man that I now believe is little Joe Juliano went into the place first. Big Joe got out second and last.

Q Did you have any conversation or anything with Big Joe at that time? A I did not. Joe got halfway up the steps, heard my motor running, looked directly in my face and ran inside. I thought it was funny he did not speak. He always does.

Q You were on a motorcycle? A I was.

Q Where was your motorcycle at that time? A I was sitting on it by the curb.

Q On the same side or opposite side of the street? A The same side of the street.

Q Now, how do you fix—what had you been doing for the hour preceding this occurrence? A It was just, a little before 10:30, I was riding the motorcycle on North Broad street, I should judge about 200 feet north of Clay street, and a car pulled up behind me and said, "There is a shooting over on the next block." I said, "Where?" He said, "Go right around the block," and thinking that he knew the circumstances I would follow his advice and I went the way he told me. I went north on North Broad street, east on Clark street and south on Mt. Pleasant avenue to almost the northerly end of the Reid plant, where I was stopped by a car which I learned later on was an employee of the plant by the name of Schenck or Shanks, and he gave me a description of the car.



Q You had some conversation with him? A Yes.

Q Did you get on your motorcycle again? A I stayed on it; I wasn't off of it.

Q Where did you drive to? A I drove up Mt. Pleasant avenue to Gouverneur street.

Q And then where? A I looked straight ahead and I could not see anything ahead on Gouverneur street.

Q Tell me where you went? A I turned left on Gouverneur street, and then up North Broad to Harvey.

Q Did you get off then? A No, sir.

Q Where did you go to then? A To Belleville avenue, Washington avenue to the North Newark station.

Q Is that the North Newark station of the Greenwood Lake Railroad? A Is is the Erie Railroad.

Q Did you get off there? A I stopped and gave the description of the car to a policeman that was standing there and asked him if he had seen it go by.

Q And then did you get off your motorcycle again? A On his information that he did not see it I turned around.

Q Did you get on your motorcycle again? A I was on it all the time.

Q And where did you go then? A I drove back over Washington avenue, Belleville avenue to Bloomfield avenue where I met another officer.

Q Whereabouts on Belleville avenue, what part? A At the junction.

Q Bloomfield and Belleville? A Yes, sir.

Q Then where did you drive? A I drove up Bloomfield avenue and I met a motorcycle officer.

Q Where did you meet him? A Along Bloomfield avenue just about at High street.

Q How far up Bloomfield avenue did you continue, if you recall? A I went up to Mt. Prospect avenue.

Q And then back and up over Clifton avenue? A I cut in through, I said, I will go in through the First Ward and that is where I went.

Q And then on to Drift street? A Yes, sir.

Q And that is where you saw Big Joe Juliano? A Yes, sir.

The Court: When you went over Mt. Prospect avenue what course did you follow then?

Witness: That I can't remember, I was just looking in side streets and around for cars and I kept on going.

The Court: In and out the First Ward?

Witness: In and out any block I came to.

*Cross examination* by Mr. McGeehan.

Q Officer, what precinct are you connected with? A The Motorcycle Division, we work out of the First precinct.

Q Were you up to the jail late the other night? A Not late, no.

Q What time were you up to the jail?

Mr. Bigelow: I object to that.

Mr. McGeehan: I think this is very important and I have got to lay a foundation.

Mr. Bigelow: I will withdraw the objection.

Q What time were you up to the jail the other night, officer? A About nine o'clock.



Q Do you know a prisoner up in the jail? A I do not.

Q Did you send $10 in with a note to some prisoner with the statement that he could help you on the Reid case? A I did not.

Q What were you doing up in the jail? A I sent $10 into a prisoner, but I done it for a friend of mine.

Q What was that prisoner's name? A His first name was Mickey.

Q What is his last name? A Oh, I don't remember.

Q What time of the night did you go up to the jail to do that? A As near as I can remember about nine o'clock.

Q Do you think it might have been around midnight?

Mr. Bigelow: I object.

The Court: Mr. McGeehan, how material is this?

A It was not midnight.

Q Was this man's name Michael Shinsky? A It might have been. I don't remember.

Mr. Bigelow: I object. If Mr. McGeehan has anything he should ask the question.

Mr. McGeehan: I can only find out from this man.

The Court: Sustained.

Q Did you say when you sent that in, "He is helping us in the Reid case, give this money to him?"

Mr. Bigelow: I object.

The Court: Sustained.

A I did not say that.

The Court: To whom was this said?

Q Who were you talking to when you passed that money in to that prisoner that night? A I don't know, it was the man at the gate, he just opened the slot.

Q Was it on old man with white hair, do you know? A I don't remember, it was very dark, he just opened the slot.

Q You were not going there on police business, were you? A No, sir, just a friendly turn.

Q And he was an employee of the jail, wasn't he, whoever he was? A I imagine so.

Q Are you sure you did not say to him "He is helping us in the Reid case. Give him this money?" A No, I did not say that.

Q Did you mention the Reid case? A I did.

Q What did you say about the Reid case?

Mr. Bigelow: Objected to as immaterial.

Mr. McGeehan: It goes to his interest.

The Court: He may answer.

A I said I am a policeman, I don't know whether you know me or not, I come up here on the Reid case in the escort of policemen, I do every day.

Q So, you are in the escort in this case, are you, too? A Yes, I am a motorcycle policeman.

Q And you mentioned this to him when you passed him the money? A Yes, sir.

Q And you did not know that man at all? A No, sir.

Q You just know he is a prisoner there? A Yes, sir.



Q When did you first tell anybody about this, that you say you know about this case? A I don't know.

Q Don't you know when you first spoke to any of your superiors about it? A No, sir.

Q Made no report at any time of this? A Only of my chase.

Q Well, where did you make it, who did you make the report of your chase to? A I went to Chief McRell's office; he was then deputy Chief.

Q Did you make a written report of your chase? A I did.

Q You did not put anything on that about seeing Joseph Juliano, did you? A I did not.

Q Did you say you went to Drift street at all in that written report? A I told them I covered the First Ward.

Q You did not say anything in that report about going to Drift street, did you? A I did not specify Drift street.

Q You specified a lot of other streets, though, didn't you?

Mr. Bigelow: I object.

A The longest streets I did—

The Court: Sustained.

Q You specified the longest street but did not say anything about Drift street?

The Court: The objection has been sustained to that question.

Mr. McGeehan: I ask an exception.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone

prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Mr. McGeehan: I ask an exception my purpose being to discredit the witness and lay a foundation to show that he made a report of this alleged time and occurrence which did not contain what the jury should know it did not contain—

The Court: I will allow it on the basis you say you will contradict it.

Mr. McGeehan: But I don't know what this man is going to answer.

The Court: I will sustain the objection on the ground it is not material. I am willing to give you all the latitude possible, but we cannot go on a fishing expedition.

Mr. McGeehan: No, I am asking a question that ought to affect the credibility of this witness.

The Court: I want to know if you are going to contradict this witness?

Mr. McGeehan: If he denies it yes, but it he admits it, of course, I will not have to.

Q Now, you put the names of the longest streets down but you did not include Drift street or say you went on Drift street, on your written report? A May I add to that answer your Honor?

Q Can't you answer that directly? A I put in the First Ward, that included this street, my report, as far as I could see.



Q And you put in the names of certain other streets, didn't you? A I did.

Q But you did not include Drift street, did you? A No, I did not.

Q Now, when do you first remember after that—when did you first remember that you had seen Joseph Juliano on Drift street that day? When did you first think of that, will you tell us? A When I seen him?

Q Yes, after having seen him, then when did it next occur to you to your mind, by way of memory that you saw him that day? A It has been in my memory all along.

Q When did you take it out of your memory and tell any of your superiors about it? A I do not remember just when. Since the case has been going on.

Q Since this trial has been going on? A I have said it several times.

Q Since the trial has been going on, is that right? A Yes.

Q Since the trial has been going on, is that right? A I have said several times since the trial.

Q And the first time since the trial began? A The first time what?

Q The first time you told it to any of your superiors was since this trial began, is that right? I don't want to get in your way.

Mr. Fisch: I object to that, and I do not think that remark on the part of Mr. McGeehan is at all proper.

Mr. McGeehan: Probably you don't like it.

The Court: Never mind. This is a serious proposition. Officer do you understand that question?

Witness: Not very well.

The Court: The question is when did you first advise any of your superiors that you saw Big Joe on Drift street?

Witness: I told that in the office when I came in when I told when I stopped the chase.

Q You told it, but you didn't put it down on your written report, is that right? A I didn't.

Q Now, since that time, did you speak to any of your superiors about it except during the time this trial has been going on and that is a simple question, isn't it? A I have not.

Q Now, I again ask you the first time you have since mentioned it is since this trial we are now in began, isn't that right? A I would not say it was.

Q You would not say it was? A No.

Q A minute ago you said it was during the trial that you first mentioned it. A No, I said I mentioned it several times.

Q Well, it is since the trial you first spoke about it to your superiors? A No, I think I spoke to some police officers.

Q In conversations on the corner? A Yes.

Q Now, isn't the first time you mentioned it to any superior—to Captain Brex—have you told him about it, by the way? A I have not spoke to Captain Brex since the day of the hold-up.

Q You have not? A No.

Q Who did you report this to when you were subpoenaed here? A I got the subpoena from Giuliano at the prosecutor's office.



Q Well, who did you tell since the trial began; whom did you talk to about it and say "I remember seeing Juliano one day in the summer or on the 19th day of July," who did you say it to? A Several people.

Q Did you say it to any of your superior officers? A I didn't.

Q You did not know how they come to subpoena you here? A I suppose I was subpoenaed here because I was chasing the car, according to the newspapers.

Q When did you tell anybody first connected with this trial that you saw Joseph Juliano on Drift street about five after eleven in the morning? A You mean the policemen?

The Court: No, anybody. Listen to the question. When did you first advise or tell anybody?

Witness: Since the trial started?

The Court: Now, name the person to whom you told it.

Q Who did you tell since the trial started?

The Court: To whom did you talk about this case?

Witness: This fellow with the glasses on sitting there.

The Court: Which one?

Witness: Right behind Lieutenant Linarducci.

Q Detective Vogel? A I guess that is his name.

Q And you told it to him since this trial began? A That is right.

Q You never told it to Captain Brex before that? A No.

Q You never told it to any lieutenants in charge of this case? A No.

Q Now, how many days ago did you tell Detective Vogel about it? A While Big Joe was on the stand, he came and asked me.

Q He came and asked you? A Yes.

Q And said, to you, "Did you ever see him up around Drift street?" A No. He said he had information that I told I had seen him there.

Q And that was not said by any member of the police in charge of this case before that, was it? A Not anybody in charge of the case.

Q Now, you were in court here every day since this case began? A Yes.

Q You were in court here bringing the men down in the morning and taking them up in the afternoon? A Yes.

Q So that you have been here every minute of the trial while the jury was being drawn and while the whole State's case was going in? A Yes.

Q And you did not come forward and tell anyone that? A I told you I told several people.

Q You did not come forward and tell Prosecutor Bigelow, Assistant Prosecutor Fisch or Lieutenant Linarducci or any of the police officers working on this case? A No.

Q Did you have it in your mind during all that time that you had seen Joseph Juliano and another defendant or a man whom you now say is another defendant on that day, did you? A At that day, the day of the hold-up, do you mean?



Q Yes. I will withdraw that. Did you carry and have in your mind during all of the days that the State's case was going in, the memory and knowledge that on the 19th of July after the Reid hold-up, you saw Joseph Juliano on Drift street and another man that you say now, you now think was Young Joe Juliano; did you have that in your mind all the time? A I was positive of it.

Q You were positive of it? A Positive.

Q And being positive of it you did not speak to anyone of these people about it? A I didn't know it was of any value until then.

Q You didn't know it was of any value? A No, I didn't.

Q Did you talk to this young man since the defense began in the case, or did he speak to you, or did he go up to you? A The time that Big Joe was on the stand and made the statement that it was half-past eleven or quarter to twelve that he left the hotel, then my information, according to myself and everybody else, became valuable.

Q Then you did not come forward before that? A I did.

Q I thought you said he came to you and said, "I heard a rumor that you might know something about the fact Joe Juliano was up there." A I said that he came to me on information that I knew something about the time Joe Juliano got there.

Q So you did not go to anybody? A Yes, I did. I picked out a man in the prosecutor's office. I told him at the time that Joe testified that is wrong, according to the time I know.

Q You told him that? A Yes.

Q Then the first time was not when you pointed out before this detective came to you in court? A It was the same time but he was not the same man.

Q Well, you know before you testified that the first one that you spoke to was when detective Vogel came to you and said, "I hear you know something about this," you testified to that? A Well, that was officially, he took that down on paper.

Q Oh, that was official, is that what you mean? A Yes.

Q That is what you meant by that answer before? A Yes.

Q And that is why you said what you did, you meant officially. A I said he took it down officially. You asked me anybody connected with the case.

Q All right. Now, you did not speak to him then. He came to you, didn't he? A He came out with a piece of paper and pencil.

Q And he spoke to you before you spoke to him, didn't he? A Yes, he did.

Q Now, during the time—you have been a member of the police department ever since? A Yes.

Q And are you sure that you saw Young Joe Juliano that day? A I said what I believe to know was him now.

Q What you believe to know is him now. What does that mean? A Well, I didn't know him as I knew Big Joe.

Q Well, did you know him at all? A I mght or might not have seen him.

Q You do not know whether you ever saw him in your life before? A Well, I was pretty sure I seen him that day.



Q You do not know whether you ever saw him before in your life? A Before the day of the hold-up?

Q That is the day I am speaking of. A I don't know whether I ever did.

Q And having seen Joseph Juliano on that day, you did not think anything of that, did you? A No.

Q You did not put it in in the report? A I did not.

Q Didn't try to remember whom you had seen of the many people you talked to that day? A No.

Q And not knowing the other man whom you say was Young Joseph Juliano, you did not carry his face in your mind at all, did you? Thoroughly, did you, or not? A As near as I can remember his face, that is all I can testify.

Q I say you did not carry it or try to carry it in your mind? A No, not perfectly.

Q And then, after the State's case was over and then the defense had finished, then you come forward and your memory makes you say that you think that was the man with him, is that right? A Yes.

Q You are not sure of that at all, are you? A Well, just as sure as I would if I seen anybody else and thought it was him, either.

Q You are not very sure, are you, officer? A To convince myself, I would say, yes, it was him.

Q Yes, but to convince a jury on oath, would you say you are pretty sure that is the man or not? A All I can say is I think it was him.

Q You are not sure at all, are you? A No, sir.

Q Now, are you sure of the time? A Positive.

Q You are absolutely certain of that? A Yes, sir.

Q What makes you certain of that? A Because I looked at my watch and at eleven o'clock I pulled the box at Crane and Belleville avenue.

Q Now, you pulled the police box at Crane and Belleville avenue at eleven o'clock? A It might have been a minute either way, but eleven o'clock my pull was due.

Q That was a pull from what box? A The police box at Crane and Belleville avenue.

Q And you are sure it was not a minute or two either way but eleven o'clock? A Well, when I looked at my watch at eleven o'clock I decided it was near time to make my pull.

Q What time was that pull? A Eleven o'clock.

Q Are you sure you made your pull before you went to Drift street? A No, sir.

Q Now, officer, if you are sure you made your pull at eleven o'clock and you are sure you were on Drift street before that, why did you testify before that it was 11:05 when you saw the defendants?

Mr. Fisch: I object to that, if the Court please, that is not the testimony.

The Court: He said about five minutes to eleven.

Q Did you say five to or five after eleven? A Five to eleven.

Q And it is on that call that you are basing your testimony at the time, is it? A Well, it is on the fact that I pulled my watch out and said, "It is near time for me to pull."



Q Now you knew Joseph Juliano, didn't you? A I did, very well.

Q And you saw him a number of times up there? A Yes, sir.

Q And you know him to speak to? A Yes, sir.

Q And what makes it stand out in your mind, in the many times that you saw him, that you saw him on the 19th of July at all? A Because outside of stopping to inform policemen and give them a description of the hold-up, that is, a description of the car that I had gotten, that was the first stop I made.

Q And you used to go to 37 Drift street almost every day, didn't you? A I worked in that neighborhood, I never went there every day.

Q But you went to the place itself nearly every day, didn't you? A My boss hung out there and I had to go to see him there, to find him.

Q Officer, let us not quibble. I don't care whether you went there because your boss hung out there or to get a drink of soda water, but you were there nearly every day, weren't you? A I was not.

The Court: How long since?

Q Did you go there all of last year and all of this year, frequently? A No, sir.

Q Your boss hung out there, you say? A Yes, sir.

Q Did you go and see your boss there some time? A Four years ago.

Q And since then have you gone there occasionally? A Once or twice I have been there since.

Q And you go in yourself once or twice? A That's all.

Q And you go past there a good deal? A I go by on Clifton avenue, to go through Drift street.

Q And you saw Joseph Juliano often, you have seen him? A Once I did stop in Drift street I was talking to Joe, the once I remember of.

Q But you have seen him a great deal on Drift street, haven't you? A Well, when I was working on that job I did, yes, a whole lot.

Q What were you working on, what job? A I was repairing cars for a cab company.

Q When was that? A That is about three and a half years, I cannot be sure of the time.

Q But since then you have been up there often? A About twice, that's all.

Q And you have gone past there on your motorcycle, haven't you? A Not often, no.

Q Occasionally? A I have since I am riding a motorcycle. I have driven through Drift street, I rode through once.

Q Now, do you know Catherine D'Amato? A I seen her in Long Branch with Big Joe Juliano.

Q You know her to see too, don't you? A Only that once.

Q You know her to see, don't you, what made you say "Only that once?"

Mr. Fisch: I object, if the Court please, that is not cross examination—I submit if the Court please that that is not cross examination. I object.

The Court: That is not cross examination.

Q Did you say, "Only that once?"



Mr. Fisch: I object to that if the Court please. I cannot see that that is cross examination.

The Court: Mr. McGeehan wants to know the answer. He is entitled to that.

Mr. Fisch: He can get it from the stenographer.

Q Now, you know her to see, don't you? A Yes, sir.

Q And you knew her to see before this trial began, didn't you?

Mr. Fisch: I object.

The Court: Sustained.

Mr. McGeehan: Why, your Honor, I want to question whether he saw her on Drift street and first I want to know if he knew her to see.

The Court: Can't you ask that?

Mr. McGeehan: I don't want to.

The Court: Why not, and not ask three or four questions to find that out.

Counsel for Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: You may ask him.

Q Did you know her to see in the middle of 1926? A In August, yes, sir.

Q Did you know her before August? A No, sir.

Q Did you see a girl on Drift street there at the time you saw Joseph Juliano? A I did not.

Q Are you sure you did not? A I am positive.

Q Not any girl on the whole of Drift street at any time? A I didn't notice any.

Q You wouldn't say there wasn't a girl there, would you? A I didn't see any.

Q He had a Cadillac open car, did he? A Yes, sir.

Q Did you know Mr. Kelly, ex-officer Kelly? A Yes, sir.

Q Did you see him there that day? A I did not.

Q Didn't see him at all? A No.

Q Were you at 37 Drift street? A No, sir.

Q At the time you say you saw the defendant you knew he had a Cadillac car, didn't you? A Yes, sir.

Q And you knew it was an open Cadillac car, didn't you? A Yes, sir.

Q What time were you at the scene of the hold-up that day? A As near as I can remember it was around 10:30.

Q Do you know it may have been a little after 10:30? A It may have been a few minutes either way.

Q It might have been 10:35? A I didn't stop to look at my watch.

Q You didn't look at your watch then? A No, sir.

Q Did you make a pull then? A Not until around 11 o'clock.

Q What was your pull before that? A Ten o'clock.

Q Where did you make that pull? A If I remember right it was Lombardy and Broad.



Q If I remember it was 10:30 when you went to the scene of the hold-up and from there you went toward North Newark? A Yes, sir.

Q How much time did you spend at the scene of the hold-up? A I just got to the north end of the plant and when I got the information I went right around on Mt. Pleasant avenue.

Q And then you went to what street? A Gouverneur street.

Q From Gouverneur street you went into what street? A North Broad.

Q And did you go along Harvey street at all? A To Belleville avenue.

Q And you went all the way out to the North Newark station? A Yes, sir.

Q How many miles is it to the North Newark station? A It is about three miles.

Q Didn't you look through any of the side streets as you went along there? A Scarcely.

Q I beg your pardon? A I scarcely did.

Q That means, I suppose, you did not? A Well, I was going very fast and I did not have time to closely observe them.

Q When you got to North Newark station you stopped, did you? A Yes, sir.

Q And spoke to a policeman there? A Yes, sir.

Q Did you give him a description of the car? A Yes, sir.

Q Where did you get that description? A When I got to the Reid plant, after the hold-up.

Q I thought you just got there and turned right around and went away? A After I got the information I turned around and went away.

Q How long were you getting the information, that is what I want to know? How long did you stay at the Reid plant? A Half a minute, I think, in that neighborhood.

Q Did you speak to the other officer there? A I didn't know any other officer there.

Q Did you speak to some person to get a description of the car? A I did.

Q Did you stop long enough to get the number? A I did.

Q And after getting to North Newark how long did you stop there? A Just long enough to give that officer a description of the car.

Q Did you turn around then? A I turned around and came down Washington avenue.

Q And then you went slowly? A No, quite lively.

Q At first you thought you were chasing in the direction in which the car went? A Yes, sir.

Q And on the way back you were not? A Yes.

Q You had an ordinary gait then? A Well, it was a little more than ordinary.

Q And then you drove back from Belleville avenue and Bloomfield? A Yes, sir.

Q How long do you think it took you to drive from the Reid plant to North Newark? A About three minutes.

Q Do you think you went sixty miles an hour? A I think I went better.

Q You think you averaged sixty miles? A I averaged sixty because I had a turn to make at the cemetery at the north end of Broad street, four turns all told that I had to slow up reasonably enough to keep the wheels on the ground.

Q How many miles do you think you did coming back? A Well, about thirty.

Q Along Washington avenue? A Yes, sir.

Q And how long did it take you to get back to the corner of Bloomfield avenue? A About seven minutes.



Q So that all you think your actual riding took was about ten minutes and then you took a couple of minutes at the Reid plant and another minute or two with the officer up at North Newark? A No, I just stopped there only one half minute, that's all, just long enough as it takes to say, "A hold-up at the Reid, green Pierce-Arrow, closed car with four or five men in it, dealers' plate 1926, did you see it," he said, "No" and I said, "Did you see it in the last five or ten minutes?" And then I swung back.

Q Then you came back? A Yes, sir.

Q Did you make any stop at Bloomfield avenue or did you go right on? A I did, I stopped to talk to a policeman.

Q How long did it take you to talk to him? A Only a half minute.

Q And then you were not chasing the car any longer? A No, sir.

Q Then after meeting that policeman you met another motorcycle officer, didn't you? A Yes, sir.

Q And you stopped to talked to him, didn't you? A Just long enough to give him the description.

Q Where was it that you met him? A Right after I met the officer at Belleville and Bloomfield avenue.

Q How much time did you consume with that officer, do you know? A He was riding alongside of me slowly, going about ten miles an hour while I was telling him about the hold-up.

Q Going along what street? A Bloomfield avenue.

Q Now, you went where from Bloomfield avenue? A We rode up to about Summer avenue and I said to this motorcycle officer, "You

go in through to the right and cover the Forest Hill section and I will cover the First Ward."

Q Did you go all the way to High street? A We went beyond High street.

Q How far beyond? A Up to either Summer or Mt. Prospect avenue.

Q And did you scour that neighborhood? A I turned in toward the First Ward, I scoured all that neighborhood from Bloomfield avenue in there.

Q Do you mean to say that you did all of that before getting to Drift street and that you got to Drift street between twenty and twenty-five minutes after you were first at the Reid plant? A When I say the First Ward I may exaggerate, I mean the district of 7th, 8th, High street, Bloomfield avenue, and all that over to about Seventh avenue.

Q And you wound up last on Drift street? A Or over to about Eighth avenue.

The Court: Did you go down Factory street?

Witness: Yes, from Factory street into Drift street.

The Court: You rode from Factory street into Drift street?

Witness: Yes, sir.

The Court: And Drift street is one block long, it runs from Factory street to Clifton avenue?

Witness: Yes.

Q You made all that touring around before going into Drift street? A Yes.

Q Then if you did all you told the jury about from the time you were first down to Clay



street and Mt. Pleasant avenue, including your trip to North Newark and scouring up through Mt. Prospect avenue, is that right? A To the left of Bloomfield.

Q And around High street and through the First Ward in twenty minutes before you got to Drift street, is that right? A About what I did, about twenty-five minutes.

Q And that you are testifying to from memory, aren't you, as to the time? A No, sir.

Q You are not? You remember that don't you? A What I am testifying is the time I pulled my watch out and I knew I had a pull to make.

Q When did you make your second call, or your pull after eleven o'clock? A Well, I don't recall, because I went in to write my report out. I might have made that at Crane and Belleville avenue, too.

Q Oh, you made two pulls at Crane and Belleville? A I may have.

Q Then you pulled also at twelve o'clock? A I did.

Q Now, if you pulled at eleven and you pulled at twelve, from the same box, isn't it possible that you made your twelve o'clock pull after you say you were on Drift street? A No.

Q Well, why is it impossible? A Because I went to the Second Precinct to write my report out between eleven and twelve o'clock pulls. I left the Second Precinct to make my twelve o'clock pull and went back to finish my report.

Q And how many minutes did it take you to go from Crane and Belleville avenue to the precinct? A It is only a few blocks.

Q Did you have to pull when you were in a precinct? A Unless we ask to be overlooked, but I didn't see why a pull should be overlooked.

Q Did you have to go out of the precinct when you were making a report, and come back to the precinct when you were through? A The idea is not to show where you are.

Q Do the rules of the department require you to go outside to make pulls when you are in the precinct?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q Isn't it a fact that you made a pull at twelve o'clock and it was just before that that you had been on Drift street? A No, sir.

Q Where was that pull made to, headquarters? A To the Second Precinct.

Q And these pulls are made from the police box and it would be recorded on a tape, is that right? A Yes.

Q Now, you still say you do not know who this prisoner Michael Schnitsky that you brought money in to the jail is, is that right A I don't think I know him. I don't know him now or I didn't know him when I went to the jail that night. I have lived in Newark all my life and I may have seen him.

Q Was it your own money that you were sending him? A No, an old crippled man by the name of Bob Wallace said his father had him picked up but because he would not go and take care of himself, and we promised him a Thanksgiving dinner, and he said, "Will you take it up?"

Mr. Bigelow: I object to this conversation.

The Court: We have been over all of this.



Q And that is the time you went up late at night, to send the money up?

The Court: He has testified around nine o'clock.

Q You are sure it was not around midnight?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q Do you know whether Carl Bielke was in the next cell to that man?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Q Were you sending money to Carl Bielke? A No.

Q You will not say Michael Schnitsky is not in the cell next to Carl Bielke?

Mr. Bigelow: I object.

The Court: Sustain the objection.

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ANDREW HYMAN, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q Mr. Hyman, where do you live? A 83-93 Milford avenue.

Q What is your occupation? A Janitor and rent collector.

Q How long have you been in that apartment house? A Two years and a half.

Q Did John Roma and wife have an apartment there the latter part of August of this year? A Yes.

Q Is the defendant Capozzi the man whom you knew as John Roma? A Yes, the man with the light suit down there.

Q Do you recall whether the defendant Big Joe Juliano and Barone— A I can recognize them.

Q Which ones? A The second man from the end and the second man from the other end and the first man—the fourth man from the other end.

Mr. McGeehan: Indicating, I think, Joseph Juliano, Capozzi and Barone.

Q Now, did you ever see Joseph Juliano and Barone before this trial? A Yes, that is, Big Joe?

Q Yes. A Yes.

Q And Barone, did you ever see him? A Yes, plenty of times.

Q Where did you see them? A At the house, in front of the house, and going in.

Q Did you ever see the defendant Little Joe? A Once.

Q Where did you see him? A Up in Mr. Roma's apartment.

Q About when was that? A I think it was July 28th. It was on a Saturday—Saturday morning.

Q Was it July 28th or August 28th? A On August 28th, rather.

*Cross examination* by Mr. McGeehan.

Q You become pretty familiar with the names of Big Joe and Little Joe? A Well, I heard



the names mentioned here in court. I knew the boys well. I seen them three or four times a week.

Q Which boys? A Big Joe. He drives a Cadillac and an old model, 1923, and the little fellow on the end, he drives a 25-model, and Mr. Roma—

Q And Roma you knew pretty well? A Yes.

Q And you do not know Little Joe well? A I only seen that defendant once.

Q You do not know him well? A Not well, no.

Q Now, you saw Barone and Capozzi and Juliano together a great deal at the apartment? A Quite often.

Q And the woman that you knew as Mrs. Roma was there? A Well, she was there part of the time and a couple of times she went away on a vacation.

Q And a number of men visited there and they had parties there and finally were put out, weren't they? A Well, no. He is about the only man I ever see visit Mr. Roma.

Q Then the only men you saw visit them frequently is Barone and Big Joe Juliano? A Big Joe Juliano, and then there is another man used to come there. He is not here.

Q Did he come frequently? A Not often, in an old Peerless, open car.

Q Do you know who he was? A No, I don't.

Q Did you ever see that man down there? A No, not that I remember.

Q Are you sure you didn't? A Quite sure.

Q That man that I just pointed out, Mr. Kuegel, that man with a pint of whisky down there? A No, sir. Mr. Roma did.

Q Now, isn't it a fact that you have seen Kuegel there? A No.

Q You do not think you have seen him at all? A No, I do not think I recognize him at all.

Q Now, were there people there that you saw frequently? A No. There were a couple of women one day I went up.

Q Do you know a man by the name of Longie? A No.

Q You did not see a tall man that went there? A No.

Q But you think you saw Little Joe Juliano there? A Well, it was on a Saturday. Mr. Roma called me from the window and he said, "Come up, I will give you the rent," and I said, "Your rent is paid," and he said, "I am going to pay next month's rent, I am going away."

Q My question is when did you see him there? A At eleven o'clock.

Q At night? A Morning.

Q And where did you see him? A In the apartment.

Q And you received some money from Ruff at that time? A I received $75 from him.

Q And then you went out? A I went out.

Q And you caught a glimpse of a man there? A There was four or five men standing at a table, and the other man was a great big man.

Q Do you know whether his name was Longie? A I could not get his name at all.

Q Of the four or five—you were not there very long? A Only five or six minutes, long enough for Mr. Roma to count out the money and hand it to me.

Q Well, you had your eye on the money? A Well, as I know Big Joe, I see him often, and



the little fellow I seen him often. This man was a big man I didn't know.

Q Now, when did you first come to the conclusion that one of the men you saw was probably Young Joe Juliano? A Well, I never paid any attention to it, because I seen these boys together around there often. It never entered into my mind at all.

Q You did not pay any attention to their faces? A Not particularly, no.

Q You are not sure he was there? A Positive, positive sure that was the day.

Q You are positive sure that was the day? A Yes.

Q You could not identify any of the others? A No only the big fellow that used to come in the old Peerless.

Q You did not see any car in front of the house when you saw Young Joe there? A I cannot say. I think the old Cadillac was there.

Q Whose? A Joe's.

Q Joe Juliano's? A Yes, Big Joe.

Q And he was in the house at the time? A Yes, he was there at the time.

Q Now, you have been questioned about this by the police? A Once.

Q Only once? A Only once.

Q You have been questioned since you have been here in court a few times? A No.

Q You were questioned by the police away back in October? A No. A big man—he may be here. Mr. Kenney, I think he is.

Q All right. He is a policeman? A Yes. That man there. He came up there and asked me if I could identify any of them.

Q Did he show you a picture? A Yes.

Q Did you identify anybody in that picture? A Yes.

*Andrew Hyman, cross.*

Q You did not remember Young Joe Juliano then? A Yes.

Q You say you did from the picture? A Yes.

Q And you saw his picture together with Big Joe, Barone and Ruff? A And I think there was another set of pictures that was mixed up. There were two or three on one picture and some on another.

Q Did you see the names on the back of them? A No.

Q Before that you heard they were arrested? A Yes.

Q Quite often since they were arrested in the Reid case? A Yes.

Q And you saw pictures of them quite often? A Plenty of times.

Q And you knew then who was charged in the Reid case? A Yes.

Q And then the police came and showed you another picture? A A regular photograph, yes.

Q And it was then you were able to pick out these three defendants and you say Young Joe Juliano— A Why, when this man came there, he asked me the names of the fellows that came up there, and I told him I did not know their names, but I told him I could give him a description of them, and he said, "Can you pick them out on a picture," and he showed me a picture, and I picked them out.

Q You picked out the three defendants, Big Joe, Barone and Ruff? A Yes.

Q Now, did they ask you whether Young Joe Juliano, one of the men on the picture, ever came there? A I do not remember. I think they did. They asked me if he ever visited there.



*Andrew Hyman, cross.*

Q And did they show you which one was Young Joe Juliano? A No.

Q You had the picture in your hand? A I knew him before he showed me the picture.

Q Well, isn't it a fact that you recognized his picture from having many times read about their arrest in the Reid case and seeing their pictures in the paper? A Well, no, not exactly that.

Q Well, partly? A No, I would know the boys if I seen them twenty years from now.

Q This was late at night? A No.

Q Or early in the morning? A Well, it was around eleven o'clock.

The Court: In the morning?

Witness: Yes.

Q Now, you don't swear that you never saw Mr. Kuegel, whom I had stand up? A No, I don't recognize him.

Q You don't swear that you never saw Mr. Kuegel, the man standing over there? A No, sir, I don't recognize him.

Q Was he there that morning? A Yes, sir.

Q Are you sure? A Quite sure, it was a big man.

Q There were three or four other men? A There were two other men besides these four. There were five men besides Mr. Roma.

Q Are you sure Mr. Kuegel was not any one of those men? A Quite sure.

Q Have you looked up your record to see when that money was paid? A What date is that?

Q The money that you said you were paid on the 28th of August? A Why, not exactly that, no.

Q Do you know when he was put out? A Why, around October 14th or 15th, I think.

Q You think he was put out in October, do you? A Yes, sir.

Q Around October 14th? A Around that, 14th or 15th.

Q And that he was still living there up to the 14th of October? A Yes, sir.

Q He was still living there up until the 14th of October? A Yes, sir.

Q Do you remember when a notice was served upon him? A Yes, sir.

Q Did you serve that notice? A Why, I was up there with the landlord's agent when he served it. He didn't serve it on Mr. Roma, he served it on Mrs. Roma. Mr. Roma was not there, unless he was in bed. I think he was in bed.

Q And you are sure you did not receive the $75 you speak of downstairs? A No, sir.

Q Positive? A Positive.

Q Was anyone else with you connected with that apartment? A No, I was taking in my cans, that is when the ashman comes.

Q And from that one glance, and only one glance you recognize these four defendants? A The little fellow because he was so much smaller than the rest, that is what drew my attention to him.

Q And you remember him because you think he was smaller than the rest? A Yes, sir.

Q You think he is smaller than the rest? A Why, yes, quite some.

Q You think he is quite some shorter than Barone, do you? (A comparison was made between the height of the defendants Barone and



Nicholas Joseph Juliano.) A There might not be in height, but in width.

Q You think he is shorter in the waist? A Well, he is different looking than the rest of the fellows.

Q You say that Mr. Kuegel is a smaller man than the man you picked out, isn't he? A He surely is.

Q And he is a trifle shorter than the one? A Yes, sir.

Q And shorter than these defendants, isn't he? A He is.

Q Don't you think it possible that the man you saw there is Kuegel? A No, sir.

Q Do you still say the man you saw is shorter than all the rest and that is why you remember him? A Positive that is the man.

Q I say, the reason you remember him is because he was shorter than the rest? A I said he was smaller and looked smaller than the rest, I did not exactly say which way he is, stouter or shorter, but I said he looks smaller than the rest.

Mr. Bigelow: I want to withdraw some evidence, if I may, Exhibit S. 7. It is a photograph which was admitted on the condition that we connect it up with the case. I do not feel that we have connected it up and I do not feel it should be shown to the jury.

Mr. McGeehan: It is a picture of a Chevrolet car, isn't it?

Mr. Bigelow: Yes, sir.

Mr. McGeehan: I don't care whether it is in evidence or it is not in evidence.

The Court: Well, we will withdraw it then.

Recess until Wednesday, December 1, 1926, at ten o'clock, A. M.

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## FOURTEENTH DAY

Wednesday, December 1, 1926.

Appearances as before stated.

Trial continued.

THOMAS J. ROWE, sworn in behalf of the State in rebuttal.

*Direct examination* by Mr. Bigelow.

Q You are a member of the police department in Newark? A Yes.

Q Have you brought with you a tape showing pulls from boxes in the Second Precinct on July 19, 1926? A Yes.

Q Will you explain what the various marks on the tape mean? I see what looks like time stamps with names written over them. A The time stamp is the clock and these dots and dashes following indicate the signal from which the pull is sent in.

Q And it indicates the time? A The hours and minutes the pull was made.

Q What does the entry in pencil, apparently officers' names, indicate? A That is the party that made the pull, the officer or sergeant, whoever made the pull.

Q Will you see if there are any pulls about 11 A. M.? A There is a pull registered here



from 22 box at just 11 A. M., credited to motorcycle officer Manning.

Q Where is 22 box? A 22 box is at Belleville avenue and Crane street.

Q And what hour did you say that was? A The clock here indicates just at 11 A. M.

Q And I see the name Manning here at another call. A That is 10 o'clock duty call.

Q Where is that from? A That is from 65 box and that is made at 10 A. M., and 65 box is located at Broad and Lombardy street.

Q Now, does the name Manning I see written there apply to this stamp here or this stamp here? A From the dots and dashes, it would apply to this. The time stamp would apply to the one ahead.

Q These dots and dashes are put on the tape automatically, are they? A By machine.

Q And is the time stamp also put on by a machine? A Yes, at the same time.

Q At the same time the time stamp some inches in front of the dots and dashes are put on at the same time as those dots and dashes? A Yes.

Q And the name over the dots and dashes indicates the officer that sent in the pull, is that correct? A Yes. That is not put on all of them, but in the daytime there is not many pulls coming in.

Q Now, I see here the name Deputy Lynch—F Department. Can you tell the time and place of that pull? A I can tell that at 10:30 A. M., on the 19th, there was a pull made from 114 box and that is located at Clay and Broad streets.

Mr. Bigelow: I offer the tape in evidence.

*Thomas J. Rowe, cross.*

*Cross examination* by Mr. McGeehan.

Q Who wrote these names on here? A I believe Lieutenant Ryan—that is, the names I testified to, of the Second Precinct.

Q And were you connected with the Second Precinct at that time? A No.

Q You were not? A No.

Q You are now? A No.

Q Where? A I am attached to Headquarters, detective division.

Q And you had no connection with this case at all? A No.

Q And the testimony you have given is from your experience as a police officer in knowing how tape is made up, is that right? A Yes.

Q And you do not know whether the markings on here were placed—the names were placed there originally or at the time the pulls were made? A It is customary to place them there at the time the pulls are made.

Q No, the majority of duty calls shown on the tape, as far as I open it up, have not any names alongside of them? A No.

Q So that custom is not a universal one? A Well, it only applies to the daytime. At night the calls are more regular and there is more pulling.

Q Now, you do not know whether those names were placed on there recently or at the time the tape was made up? A Not positively.

Mr. McGeehan: I object to it on that ground.

Q These are written in in lead pencil, the names you spoke of? A Yes.



*Thomas J. Rowe, re-direct—re-cross.*

The Court: The tape will be excluded, but the testimony that is in will remain, because there was no objection to it.

*Re-direct examination* by Mr. Bigelow.

Q Where are these tapes kept after a tape is all filled? A The tape is retained at the precinct, after it is completed. It is 24-hour tape, from 8'clock in the morning until the following morning, and then it is forwarded to the Deputy Chief's office and turned over to Lieutenant Nunn, who keeps them.

Q Lieutenant Nunn's office, is that at Police Headquarters? A Yes.

Q And you brought this from Police Headquarters, I understand? A Yes.

Q When did you get this tape? A At about 8:50 A. M. this morning.

Q You found it there? A It was turned over to me by Lieutenant Nunn.

*Re-cross examination* by Mr. McGeehan.

Q Will you show me the one you refer to as being the 11 o'clock call? A Yes. The clock stamp is one ahead of the dots and dashes. This is 22 box—

Mr. Bigelow: Will you speak louder?

A (Continuing.) The clock stamp is about six inches ahead of the dots and dashes on the tape. 22 box is credited to Manning and the time.

Q Tell us what time you see there? A I see eleven o'clock.

Q Take a good look at it, does the arrow point to the hour of the clock that indicates the time of

the call, Lieutenant? A The arrow points to the minutes and there is a little, just an arrow head points to the hour.

Q Then the arrow does not indicate the hour but the minutes, is that right? A Yes, sir.

Q Now, you have got one marked Deputy Chief Lynch, is that right? A That is marked "Deputy Lynch, F. Dept. reference to hold-up."

Q Where is that time for that one? A Right here.

Q That is at 10:30? A About 10:30 or 10:29.

Q Now, have you one there at twelve o'clock for Manning? A Yes, sir, box 114, with the notation, "Manning" and the clock stamped 12 or 11:55.

Q Now, these entries and these lead pencil writings that you have there, you don't know whose handwriting they are in either? A No, sir.

Q And of course, you have no knowledge of the time the calls were made yourself by Mr. Manning on that day, have you? A Other than the tape here.

Q Now, Lieutenant, outside of the pencil writings, placed upon that and which you don't know when it was put on, or where the information came from that these were the calls Mr. Manning made, you have no knowledge of the correctness of them, have you, outside of the writing upon it? A Through the day signal sheet I have.

Q Have you the day signal sheet? A The Prosecutor has it.

Q What is the day signal sheet? A The day signal sheet will show Manning's name as motorcycle officer assigned to that precinct and the



pulls made by him and the signal box from which he made them.

Q That is taken from the tape, isn't it? A The Lieutenant who writes it up takes it from this tape.

Q But you were not that Lieutenant? A No, sir.

Q You brought this record and the tape from headquarters, didn't you? A Yes, sir.

Q And you were in Captain Brex's office? A No, sir.

Q Did you bring the written report that Officer Manning testified he wrote up in the precinct on the day of the occurrence of this hold-up? A No, sir.

Q Do you know where that is? A No, sir.

Q You knew, did you, that Mr. Corrigan all last night and since early this morning—

Mr. Bigelow: I object to that.

The Court: Sustained.

Q In whose custody would they be, Lieutenant?

Mr. Bigelow: I object.

The Court: Sustained.

Mr. Bigelow: The State rests.

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JAMES HARRIS, sworn in behalf of defendants in sur-rebuttal.

*Direct examination* by Mr. McGeehan.

Q Mr. Harris, you are guard at the Essex County Jail? A Yes, sir.

Q And have been for how long? A About sixteen years.

Q And on one night last week did Officer Manning, Motorcycle Officer Manning, come to the jail and give you ten dollars to give to a prisoner named Shlisky and tell you to give it to Mike Shlisky, that he was helping him on the Reid case?

Mr. Bigelow: I object to that, it is immaterial.

The Court: How is that material?

Mr. McGeehan: It is rebuttal of the testimoney of Officer Manning. He was asked that question and allowed by the Court to answer it, and he denied that he said it, but he made another explanation.

The Court: Is it not the rule that when a person is called you can affect his credit by cross examination, and that matter which is not material, but collateral cannot be rebutted.

Mr. McGeehan: But I want to show his interest—

The Court: To show his interest in the case?

Mr. McGeehan: It was to attack his credit and to show his interest in the case and affect his credibility by showing that the answer which he gave is not the true one and being asked and having been answered by him I think we are entitled to contradict his answer so as to affect his credibility.

The Court: That is not my understanding of the rule and if the Prosecutor presses an objection I will sustain it. Did you say you were a guard at the jail?



Witness: Yes, sir.

The Court: Paid by this county?

Witness: Yes, sir.

Mr. Bigelow: I am going to insist upon my objection to that, your Honor.

The Court: Objection sustained.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

Q You came here as a guard paid by the county, under subpoena by the defense, didn't you? A Yes, sir.

Q And you are here to tell the truth?

Mr. Bigelow: I object.

The Court: Sustained.

Q And you were in the Prosecutor's office—

Mr. Fisch: I object to that.

The Court: Sustained.

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JOHN J. McCLAFFERTY, sworn in behalf of the defendants in sur-rebuttal.

*Direct examination* by Mr. McGeehan.

Q You are a guard at the Essex County Jail? A Yes.

*John J. McClafferty, cross—re-direct—re-cross.*

Q And have you a prisoner there by the name of Carl Bielke? A Yes.

Q Have you a prisoner there by the name of Harry Spitzner? A Yes.

Q And are those two prisoners in the same tier with each other? A Yes.

Q And have they access to each other in that tier throughout the day? A Yes.

*Cross examination* by Mr. Fisch.

Q How far apart are their cells? A Well, Bielke is locked in cell 50 and Spitzner locked in cell 59.

Q And both of those cells are on the same side of the tier? A Yes.

Q And they would be eight cells apart? A Yes.

*Re-direct examination* by Mr. McGeehan.

Q They would be eight cells apart when locked up for the night? A Yes.

Q But during all day long, being in the same tier, they would have complete access to each other and meet in the corridor, would they not? A Yes.

Q And from what time in the morning would that exist? A Well, they open at nine o'clock in the morning or ten—I couldn't say the exact time, but then they close up at night at 8:30.

Q And all day those men could be together? A Yes.

*Re-cross examination* by Mr. Fisch.

Q What time do you go on? A Four o'clock in the afternoon.



*George F. Corrigan, Jr., direct.*

Q And at that time the prisoners are locked in their cells? A No.

Q What time do you lock them up? A 8:30.

Q What time do you go off? A Twelve.

Q And they are still locked in their cells at that time? A Yes.

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GEORGE F. CORRIGAN, JR., sworn in behalf of the defendants in sur-rebuttal.

*Direct examination* by Mr. McGeehan.

Q You are an attorney at law of this State? A Yes.

Q And you are associated with me in the practice of law, are you not? A Yes.

Q And have been assisting me in this case? A Yes.

Q Did you last night, after the close of court, and this morning before the opening of court, make an effort to obtain the written report testified to by Officer Manning yesterday as having been filed?

Mr. Fisch: I object.

The Court: I will allow the question.

A I did.

Q What effort did you make last night and this morning to get that report? A At seven o'clock last night I went down to the record bureau at Police Headquarters and spoke to Harry McKee, who is in charge of the record bureau and asked him—

Mr. Fisch: I object to the conversation.

The Court: No, no conversation.

Q To what various police officers did you go? A Mr. Harry McKee of the record bureau, Lieutenant Fisch of the Second Precinct, Captain Quinn of the Second Precinct and Lieutenant Nunn.

Q Did each send you to the other? A Yes.

Q And where else? A Chief McRell and Deputy Chief Harris.

Q And who were you finally told would have it? A Captain Brex.

Q Were you able to get that report? A No.

Q Have you been able to get it? A No.

Mr. Fisch: Did you see Captain Brex?

Witness: No.

Q Did you know Lieutenant Linarducci called from the Prosecutor's office about an hour ago to try and get Captain Brex? A I understood it.

*Cross examination* by Mr. Fisch.

Q Did you have subpoena *duces tecum* with you? A I had one ready for Captain Brex.

Q But you did not see Captain Brex? A No.

Q And you have been informed that Lieutenant Linarducci of the Prosecutor's office this morning made an effort to get in touch with Captain Brex to get that report for you? A Yes.

Q And in working on this case, did you spend some time in Wilmington last week? A Yes.

*Re-direct examination* by Mr. McGeehan.

Q You were not there with Detective Cocozza, were you? A No.

Defendants Christopher Barone, Joseph Juliano and Louis Capozzi rest.



NICHOLAS JOSEPH JULIANO, recalled in his own behalf.

*Direct examination* by Mr. Kavanagh.

Q You heard Detective Thomas testify yesterday afternoon, did you? A Yes.

Q Now, after your arrest, were you taken into a room alone with Detective Thomas? A No.

Q Were you ever at any time after your arrest in a room with Detective Thomas alone? A When they first went in there there was a woman cleaning up the room and two other detectives and him.

Q So at no time subsequent to your arrest were you in the room with Mr. Thomas alone? A No.

Q Did you ever make a statement to Detective Thomas that you did not know Boudreau? A No.

Q Did you ever make a statement to Detective Thomas that you did not know Myrtle Foster? A No.

Q Were you on the morning of July 19th, this year, about five minutes to eleven or thereabouts in company with Big Joe Juliano on Drift street? A I was not in the city, sir.

Q Did you hear the testimony of Miss Foster yesterday afternoon? A Yes, sir.

Q She said that she met you about September 1st, is that true? A No, sir.

Q When did she meet you? A In around the 4th or 5th of September.

Q Sure of that? A Yes, sir.

Q Why are you sure of it? A Because there is a fellow by the name of James Caprio came back from Virginia September 1st or 2nd—I am not sure—

The Court: Is that the man who testified, who is called "Bullard?"

Witness: Yes, sir. Two nights after he came back is when I met this Kathleen Daniels and she introduced me the day after, or two days after, rather—one or two days after that she introduced me to Mrs. Myrtle Foster and Robert Boudreau in front of 16 Ogden street.

Q So that the way you met Miss Foster and Boudreau was through Kathleen Daniels whom you met subsequently to September 1st?

Mr. Fisch: I object to that.

The Court: I will allow it.

A Yes, sir.

Q You heard the janitor at the apartment at 93 Milford avenue testify yesterday afternoon? A Yes, sir.

Q He said that you were at one time, I think the day he said was the 28th of August, on a Saturday morning in the apartment of Mr. Capozzi at that address. Were you ever in that apartment on that particular date, August 28th or any other time? A I did not know the gentleman to speak to.

The Court: Answer the question.

Witness: No, sir.

Mr. Fisch: No questions.

Mr. Kavanagh: The defendant Nicholas Joseph Juliano rests.

Mr. Bigelow: Your Honor, about five minutes ago I was told that this report was on its way up here and I am trying to locate



it. Would your Honor take a recess for a few minutes so that if necessary we can get a subpoena *duces tecum* and if there is such a report bring it here. I don't know whether there is or not, but if there is we will turn it over to Mr. McGeehan. He did not use a subpoena, but it seems to me if it is there we will get it—

Mr. McGeehan: We could not get anyone to take a subpoena.

Mr. Fisch: Well, our information is that the report is on its way up there, and as soon as it comes we will turn it over to Mr. McGeehan.

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EDWARD J. MANNING, recalled in behalf of the defendants in sur-rebuttal.

*Direct examination* by Mr. McGeehan.

Q Officer Manning, how many written reports did you make out?

Mr. Fisch: I object.

The Court: We are interested in one report. Can you not ask him if that is the report?

Mr. McGeehan: No, I cannot.

The Court: I think you can.

Mr. McGeehan: I ask permission to recross examine this witness.

The Court: No. I am going to permit you to ask him if that is the report you are seeking.

Mr. McGeehan: I cannot very well do that.

The Court: Well, let me have the report.

Mr. McGeehan: I desire to examine him on that.

The Court: Officer Manning, look at that report.

Witness: Yes, sir.

The Court: Is that a report that was referred to yesterday by you as the one having been made out on the 19th of July after you learned about the Reid case?

Witness: It was.

Q Did you make another report beside that?

Mr. Bigelow: I object.

The Court: Sustain the objection.

Mr. McGeehan: Your Honor, I do not want to introduce this unless I am permitted to find out if this is the one or if others were made at a subsequent time at the Chief's direction.

The Court: Ask him that question.

Mr. McGeehan: This is not my witness and I do not want to be deprived of the opportunity of asking him about another report.

The Court: Ask him specifically the question you want.

Q Did you make two reports in writing?

Mr. Bigelow: I think he ought to be restricted to some time.



Q Did you make two reports, one on the day of the 19th and one a few days later, to Chief McRell? A That is the only report I made to Chief McRell.

Q Did you write out another report a few days after the first report and file it in the police department? A No.

Q You are sure of that? A Positive.

Q You only made one report altogether in writing? A No, I believe I made two.

Q Yes. Now, will you tell us which one of those two that is? A That is the first one.

Q What makes you sure that is the first one? A Because the second one I made out was on a long slip belonging to the Prosecutor's office.

Q When did you make that second one? A I think it was sometime in July.

Q Are you sure that you did not— A July or August; I am not sure.

Q Are you sure that you did not make out a second report for the Chief at that time? A I did not.

Q You are sure about that? A I am positive.

Q Now, this report does not contain the hour that you made it, does it?

Mr. Fisch: I submit the report speaks for itself.

The Court: He can look at it.

Q Turn it over and see if it contains the hour when you made it? A It does not.

Q Have you any memorandum or knowledge of the time you made your report in that station house that day? A It was before one o'clock.

Q Before one o'clock? A Yes.

Q And that is all you are sure of about the time? A Yes.

Q Do you remember testifying yesterday that you knew you made your report between eleven and twelve and that is how you knew?

Mr. Fisch: I object.

The Court: No. He testified he made part of it and then came back after making his pull.

Q Yes. Do you remember testifying yesterday that you knew you had not made the duty call at twelve o'clock before you came into the station house?

Mr. Fisch: I object.

Mr. McGeehan: He said he had not made his duty call before twelve o'clock.

Q Now, officer, you made your report before one o'clock, and that is all you know about the time of the making of it, isn't that right? A Yes.

Q And do you think you can be mistaken as to the time you got to the vicinity or got into the station house as being before twelve o'clock? A No, I could not be mistaken on that.

Q Did you, after going along Washington avenue to the city line, and coming back, then cross to Bloomfield avenue and then patrol that avenue to the city line?

Mr. Fisch: I object:

The Court: Sustain the objection.

Q Did you go, before you went to the station house, and before you made the report, all the



way up Bloomfield avenue to the city line of Newark?

Mr. Fisch: I object:

The Court: What is this question?

Mr. McGeehan: Did he patrol before he went to the station house, before he made the report before he made the pull he speaks of and before he was where he saw the defendant.

Q Before all of this, did you, in addition to where you said you went yesterday, also patrol Bloomfield avenue to the city line?

Mr. Fisch: I object. I cannot see how that is competent.

The Court: The man is entitled to see the paper.

The Court: You are examining from a paper and he is entitled to see the paper to refresh his recollection.

Mr. McGeehan: I have a paper in my hand, but I am asking him a question, nothing about the paper, I am asking him as a fact if he did or did not do it.

The Court: At what time?

(Question withdrawn.)

Q Before you stopped going on your motorcycle and going into the station house did you in addition to the places you went yesterday also patrol Bloomfield avenue to the city line? A I don't recall whether I went to the Bloomfield city line before I stopped or after.

Q And if you did it was all in that twenty or twenty-five minutes before eleven o'clock, is that right? A I would not swear to that.

Mr. McGeehan: I offer the report in evidence.

Mr. Fisch: No objection.

(Same is marked Exhibit D. 19.)

*Cross examination* by Mr. Bigelow.

Q Is this the paper, Officer Manning, that you refer to as a second report being made to our office on the long sheet of paper? A It is.

Q Was yesterday the first time you had ever testified before a jury? A It was.

Mr. McGeehan: I object.

Mr. Kavanagh: At this time, if it please the Court I renew my motion for the direction of a verdict in favor of Nicholas Joseph Juliano on the ground that the allegations contained in the indictment are not sustained in anywise by the evidence adduced by the State.

The Court: The motion will be denied.

Counsel for defendant Nicholas Joseph Juliano prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

Mr. McGeehan: I also move for the direction of a verdict of acquittal for the defendants Joseph Juliano, Louis Capozzi and Christopher Barone on the ground that the proof has not sustained the indictment and its charges against the defendants and the proof does not conform to the bill of particulars presented and served upon the defendants, and upon the ground that the evidence does not prove beyond a reasonable doubt the guilt of the defendants.



The Court: The motion will be denied.

Counsel for defendants Louis Capozzi, Joseph Juliano and Christopher Barone prays an exception to this ruling of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

TESTIMONY CLOSED.

## CHARGE.

CAFFREY, *J.*

Gentlemen of the Jury. The function of the Court is to instruct the jury with reference to the principles of law governing this case. The principles of law as charged by the Court should be accepted by you. The jury, however, are the sole judges of the facts, the weight of testimony and the credibility of witnesses, the inferences to be drawn from the evidence and the ultimate conclusions to be reached upon all of the facts in the case.

The Court, in referring to testimony, is not to be understood as deciding any facts, but merely as attempting to elucidate the evidence for the convenience or assistance of the jury.

If the Court errs in its statement as to any evidence or assumes the existence in its statement of any evidence, or assumes the existence of any evidence that is not actually before the jury, the jury are to rely upon their own recollection and not upon the recollection of the Court.

If any part of the evidence is referred to seemingly giving it particular emphasis, the jury are not to disregard other evidence which they may deem of greater importance.

It is the duty of the jury to consider all the evidence and the pertinent proof bearing upon the questions involved in this case, not only which are mentioned by the Court, but which have been presented to you.

The law presumes in this case, as in all other criminal cases, that the defendants are innocent and that presumption attaches to every man who is charged with crime. This presumption can only be overcome by evidence showing beyond



a reasonable doubt the guilt of the defendants. The State must prove all the essential elements of the crime beyond a reasonable doubt. The State has that burden and it does not shift throughout the case.

Reasonable doubt, to use the language of our upper courts, is said to be a term often used, probably pretty well understood, but not easily defined. It is not a mere possible doubt, because everything relating to human affairs and depending upon 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 of the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge. The evidence must establish the truth of the facts to a reasonable and moral certainty, a certainty that convinces and directs the understanding and satisfies the reason and judgment. This we take to be proof beyond a reasonable doubt.

These defendants are presented upon an indictment found by the Grand Jury and are charged, together with Robert Boudreau, with having, "on the 19th day of July, in the year of our Lord, one thousand nine hundred and twenty-six, did wilfully, feloniously and with their malice aforethought, kill and murder George Condit, contrary to the form of the statute in such case made and provided and against the peace of this State, the Government and the dignity of the same." This indictment will be taken with you to the jury room.

The finding of an indictment is merely a step in the regular course of procedure, and under our constitution, no man can be charged with

crime unless he is first presented by a grand jury and it has no evidential value against the defendants.

The State contends that this killing of Mr. Condit grew out of a robbery of the paymaster or, rather the property of the Reid Ice Cream Company.

Under our statute, it provides, "any person who shall, in committing or attempting to commit robbery"—or, rather, I will put it this way: "Murder which shall be committed in perpetrating or attempting to perpetrate any robbery shall be murder in the first degree."

Robbery is defined to be, and I will use the language of the statute, "Any person who shall forcibly take from the person of another money or personal goods and chattels of any value whatever, by violence, or putting him in fear, and his aiders, procurers and abettors, shall be guilty of a high misdemeanor." Of course, in this case you are concerned not solely with robbery, but with a murder which grew out of the robbery, as testified to in this case.

Murder is defined as the unlawful killing of a human being with malice aforethought by a person of sound mind and discretion.

This case has been before you for probably three weeks. You have heard considerable testimony, and you are now called upon in the performance of your duty to decide the guilt or innocence of these men on trial.

As I pointed out to you before, this determination must rest upon the evidence before you and, as I said, you are the sole judges of the effect of that evidence.

There are certain facts in the case which have been presented in the form of exhibits. You



have before you the map and there is in evidence certain photographs showing the Reid Ice Cream Company plant and the places adjacent and contiguous to that plant, and there is testimony that on this day in July, Mr. Condit, an employee of the Reid Ice Cream plant, after leaving this building with money and checks belonging to that company, was shot and, as a result of that shooting, he died.

There is testimony in the case, I think from Dr. Martland, that there were two wounds. I think he said one wound showed an entry some place under the right arm, or, as indicated, which you can recall, when there was a demonstration before you by the doctor, and I think Mr. Fisch, who appeared before you was used as an exhibit in this instance. The doctor testified there was another wound and he described to you the condition of the wound and its course and the markings on the skin. He said that from his examination that the bullet which caused death and the bullet wound which he deemed not to be a fatal wound, was made by a bullet of a calibre greater than a .38 calibre cartridge.

The State has offered, in support of its contention, many witnesses, some of whom were very close to the scene on this morning. It has offered other witnesses whose testimony is based from observation not so close to the point of the killing, and the defense has entered a general denial, and, in support of the various defendants' denials, has offered evidence to prove that at the time of the killing and the robbery, they were elsewhere and, in the language of the law, we refer to that as an alibi.

The question of an alibi, and I am quoting now from the rule accepted by the upper court

with relation to the defense of alibi, "An alibi is a defense arising upon proof that the prisoner was elsewhere at the time the crime was committed, and consequently incapable of being the guilty person. If such a defense be overcome by the State or be discarded by a jury, the State will not thereby be relieved of the burden of establishing the guilt of the accused by affirmative evidence which shall satisfy you that he is guilty. If reasonable doubt of guilt is raised even by inconclusive evidence of the alibi, defendant is entitled to the benefit of it. In that event a defense which otherwise would overcome and put at naught the State's evidence would simply be put out of the case." Now, this reference, or, rather, the application applies to all of the defendants in this case, because all have offered proof and testimony of their presence elsewhere at the time when this crime was committed.

Counsel for the defense consumed several hours in reviewing the facts yesterday and the prosecutor today very ably analyzed the evidence, according to his contention, before you this morning, and I am relieved of an extended discussion of the evidence you have heard. However, I am going to consider some of it by way of discussion.

You will recall the testimony of Mr. Schenck, I think it was he who said that he made up the payroll or had something to do with it, and he testified that in addition to the checks which were to be deposited by Mr. Condit, there were some $8,000; that he was attracted by the shooting and that he proceeded in pursuit of the people who he had supposed committed this robbery and murder.

The State has offered in evidence the testimony of Robert Boudreau, one of the men jointly



indicted with the four defendants now on trial. As I recall his testimony, he said that he knew Joseph Juliano, who has been referred to in this case as Little Joe, that he had met him some time prior to the commission of this crime in July. He said he met him at a club house in Drift street, that he was introduced to this club by some man whom he had met at a spaghetti house and that he gambled at this club house on Drift street and Little Joe remarked to him that he was a "game loser," and that was the beginning of their friendship; that at some time or another during their conversation Boudreau was asked by Little Joe whether or not he had ever done time, and he answered, "Yes." The testimony further shows that some time later Boudreau or, rather, Little Joe, lived at 16 Ogden street, the place of residence of Boudreau, and Myrtle Foster, who has been referred to here as his common law wife.

Boudreau testified that on the morning of the 19th, pursuant to an arrangement with Little Joe, he met him and they drove to a point on Clifton avenue. I think he said they stopped on the south side of Drift street when they reached that point in a Hudson brougham which was owned and driven by Little Joe; that after arriving there Little Joe left the car and a short time thereafter a Pierce Arrow—a green Pierce Arrow—drove up out of Drift street and stopped on the north side of Drift street at Clifton avenue, that he entered that car and he was introduced to Joseph Juliano, referred to as Big Joe, introduced to Barone and to Ruff, whom he knows to be Capozzi. I think he testified that he took the wheel, that he drove over Clifton avenue to Park avenue, down Park avenue to Bloomfield

avenue, down Bloomfield avenue and over Clay street and stopped in front of Albert's Foundry; that at some time during the ride he was given a chauffeur's cap, which he put on. He further testified that Barone and Capozzi left the car, and Little Joe and Big Joe and himself remained in the Pierce Arrow; that Barone and Capozzi, for a time, walked up and down Clay street between Mt. Pleasant avenue and Ogden street, and he says that they remained stationary at the point reached on Clay street until there was a request, or a demand made that the car make room for another, and I think Boudreau further testified that after some words, in which Little Joe took part, speaking for the occupants of the car, the green car did move somewhat, and afterwards backed into the space that had been formerly occupied before the moving. If my memory serves me right, I think the boy named Huber, who was employed by the Albert Company, testified that he saw a green Pierce Arrow and he was attracted by the car itself and he made some observation. He said the car remained in that position until they changed it in order to make way for one of the company's trucks.

Boudreau further testified that he sat at the wheel and, upon a handkerchief signal given by Barone, he proceeded into Mt. Pleasant avenue and brought his car to a stop at a point near the Chevrolet, which was facing south on Mt. Pleasant avenue, and it was located at a point close to the stairs and somewhat off the street, and the Pierce Arrow drove to this car and the space between the Chevrolet and the Pierce Arrow was some two or three feet, or, I might be mistaken and he might have said enough



room for two or three people to pass; that Capozzi and Barone left the car and Little Joe stood on the running board and Big Joe remained in the car, and that he was instructed to put the car in second and that he did and he heard a shot, and I think he heard some more—I do not know just how many he testified to; that after the shots he proceeded north on Mt. Pleasant avenue and, when he reached the point, his progress was somewhat obstructed by the presence of a truck which was backed toward the west side of Mt. Pleasant avenue, which necessitated his swinging his car more to the right and practically going on the sidewalk; that he proceeded until he turned in one of the streets which run east and west until he reached the point, I think he said, at Third avenue, when he left the car, to use his language, if I can recall it, he said he slid out while the car was in motion and did not come to a stop, and Little Joe took his place and he was instructed to go back to the Reid plant to see whether or not he could be identified, and then he was instructed to report at the club.

Mr. Seigel testified that he had reached the Reid plant preparatory to going in there, and he brought his car to a stop at a point, I believe, he indicated on the map, as he said, half way in the driveway, and that he saw this car stop, and he saw these defendants. He said he recognized Capozzi and Barone when they were at or near the Chevrolet; that he recognized Little Joe from his standing or being near the Pierce Arrow, and he recognized Big Joe from the rear window. In response to questions on cross examination he said that he was less certain, I believe, of Big Joe than any of the rest.

However, he left the stand and picked out the four defendants as being the persons whom he saw at that time.

Then you have the testimony of the two girls from the Reid plant and also of Mr. Duff that he picked out at least one of the defendants. A Miss Yokum who worked across the street, testified that she was attracted by the mannerisms of a girl in one of the windows at the Reid plant. She said that she had a back view of one of the men, and in court she walked over to Capozzi and pointed him out, observing the back view of this man in the court room as the man who looked like the man whom she had seen this day at the plant. Thomas Clark, the boy who testified he was walking on the west side of Mt. Pleasant avenue, picked Boudreau as the man whom he had seen in the front seat of this car.

As pointed out before, or, referred to, rather, the defendants contend that they were elsewhere and, therefore, they could not have been at the scene of this hold-up and murder at the time alleged in the indictment and set forth by the State in support of its contention.

Joseph Juliano, or Nicholas Joseph Juliano, referred to as Little Joe, brings testimony that he was at Morristown on July 19th; that he knew he was there because beginning with Decoration Day, he made it a point to go up there and spend week-ends. He said that he was never in Newark on any Monday from Memorial Day until some time in September, except on July 5th, and that was the day after the 4th and he said he went to a ball game. His wife also testified that he spent week-ends at her mother's home in Morristown. She testified that he never was away from there on any Monday, but later corrected herself to say that she did remember that he went to a ball game in Jersey City on the 5th of July, and she said he left the house that day about 12:30 to go to Jersey City to see the ball game.



Boudreau, I believe, testified as to meeting Little Joe sometime around the 8th, 9th or 10th of July.

I believe Nicholas Joseph Juliano said that he was not in Newark at that time; that on the 10th he came down from Morristown and he remembers distinctly because he received a suit of clothes, or received money from his brother to purchase the suit; that he drove to Morristown late that night, reaching there sometime between the hours of ten to twelve.

Mrs. Isabella Keane, the mother of the wife of the defendant, testified that her son-in-law was in Morristown on the 19th and had been there week-ends—every week-end from Decoration Day. The father-in-law of the defendant also was offered to support the alibi of Nicholas Joseph Juliano.

Nicholas Joseph Juliano testified that he did not know Barone; that he knew his cousin Big Joe for some twelve or thirteen years, and he had a slight acquaintance with Capozzi by reason of Capozzi's association with his cousin.

At this time I might direct your attention to some of the evidence given at the close of the case concerning a meeting at some gasoline station, and I believe it was at North Newark, where Boudreau is alleged to have asked, "Who is that man?" and he was told it was Little Joe. At that time Myrtle Foster testified that there was a conversation between Barone and Boudreau—between Barone and Little Joe and there was some reference made about going to New

York and meeting at their hangout and I think, too, at that time, if I am correct in my reference to the testimony, Chillie, referred to in this case as Little Joe's girl, was also in the automobile. The testimony, I think, of Myrtle Foster, is to the effect that Barone put his hands over Chillie's eyes.

It is a proper query at this time, "Did Little Joe know Barone, was he sufficiently acquainted with him, or did he know this girl referred to as Chillie, that would justify this familiarity."

I might say, too, that another witness called in this case was a Harold Gorman, who testified that he was in business with Nick Marone at one time and that he knew Big Joe and that he knew Little Joe and that he knew Boudreau and that he knew Christopher Barone and that one day, in conversation, after the 19th of July, or in September, Boudreau remarked to him that Nutley was a slow town, and he asked Boudreau if he knew Chris Barone and Buck Joseph and Boudreau said, "No," he did not know either of these people. He further testified that he was a friend of Little Joe's, because they were taxi drivers together two years ago at the Tubes.

Capozzi, in support of his defense, said that on the morning of the hold-up and at the time of the hold-up he was at the St. Francis Hotel, where he had been living from July 3rd, and that he did not leave the hotel until late in the morning, whether it was half-past eleven or twelve o'clock, I cannot recall. He said that he received a telephone call from a Miss Miller, with whom he had lived there as his wife, from Wilmington, and that after learning that, he 'phoned to her mother, and then he called up the Pennsylvania Railroad station to learn what



time the train from Wilmington was due, and he was advised that it was in the neighborhood of four o'clock, and that he left to keep an appointment at twelve o'clock with Barone and Big Joe.

Mr. Shelter, of the Packard Company, testified that he was at the St. Francis Hotel that morning. I think he said he left his own home about 8:45 and made a stop for Silverman at Elizabeth avenue and then proceeded to the St. Francis and waited until Mr. Silverman came out with the signature of Roma, whom he knew Ruff to be, or Capozzi; that he drove over to the Packard Company and then proceeded to Bernardsville, where he had an appointment. Mr. Shelter did not enter the hotel, nor did he see Roma sign, although I think you have in evidence an exhibit, attached to which is Roma's name, and attached to that same paper are two signatures, one, I think, is Mr. Shelter's and the other, I think, is Miss Walz'. Although their names appear as witnesses to the signature of Roma, both have testified that they did not see Roma's name signed that morning.

Mr. Shelter further testified that on Sunday Max Silverman was at his home in company with Barone, one of these defendants, and I think Buck Joseph, if I am not mistaken, was also present, and that at that time a duplicate set of papers were given to Silverman for Roma's signature.

Silverman testified that on this morning he called at the hotel and awakened Ruff. Ruff was asleep when he reached his door, where he obtained the signature and then left and gave it to Mr. Shelter.

Silverman testified that he was a professional bondsman and he knew these three defendants. He said he did not know what any of their businesses was. He testified that he made a trip to Chicago with Capozzi and that he went out there seeking a man on whose bond he had gone, and on the morning of the 19th, or shortly after the morning—sometime before two o'clock—he drove Ruff's new car from the Packard Company to in front of his brother's restaurant, and that after that they went to Belleville, and he did some banking relative to taking over some automobile agency.

Miss Miller was called and she testified that she called Ruff from Wilmington, and she fixes the time sometime around 11:30. The proof in the case, or rather, the testimony indicates that there were some telephone calls from the St. Francis charged to Ruff. The proof, too, shows that the day after the 19th he removed from the St. Francis to a flat on Milford avenue and that he remained there until one day before he was arrested, and I think the testimony of the janitor the other day was that he was put out. He testified that he had an appointment with Barone and Big Joe and they met pursuant to that appointment at or near Childs', or at 18 Treat Place; that they went to Weber & Heilbroner's and made some purchases, and then later on Big Joe went to the railroad station to meet Miss Dot Miller.

Joseph Juliano, referred to as Big Joe, testified that at the time of this murder he was at the Berwick Hotel and was there with a Catherine DeMatto, a widow with whom he had been friendly for the last five years, and that he did not leave the hotel until 11:25 or 11:30, and



that he registered at that hotel as Mr. and Mrs. Thomas Jones, Jersey City. He said that he left the hotel and proceeded up Lackawanna avenue and finally arriving at Clifton avenue, near Drift street, where Catherine DeMatto lived, and in support of his presence at the hotel, he said he made two telephone calls and the numbers indicated on the slip, or the card, show that these calls were made respectively to his mother's home and then, about an hour and a half afterwards, a 'phone call to Gulie Grande's on Drift street, and that the call to his home was with reference to the taking of the family to the seashore, and the 'phone call to Gulie Grande was with relation to getting Angelo, a cousin of Gulie to act as his chauffeur. Gulie Grande was called by the defense and he testified that he remembered—or, rather, Angelo Grande, referred to, I think, as Gulie, testified of receiving 'phone calls many times, but could not remember specifically this day, but he said that he had received calls from Big Joe with relation to procuring his cousin to act as a chauffeur. Grande, the man who acted as chauffeur, was called to the stand and he testified that he took the family to the seashore, and he remembered it because it was the first time that he had ever acted as chauffeur for Big Joe. Mr. and Mrs. Frank Amore testified that they met Catherine DeMatto and Big Joe on Lackawanna avenue at a point near Broad street, in front of the Armour Beef Company, and that they talked with relation to the use of an automobile and a birthday party, or the non-presence of Big Joe when Mrs. Amore had the party, which was the 18th, and he fixes the time as after eleven o'clock, and, then, I think, we had as a witness an ex-police officer,

Kelly, who met Big Joe at Chillie Grande's in the neighborhood of twelve o'clock and then rode downtown with Big Joe to keep his appointment with Capozzi and Barone.

Barone testified that he was home; that he remembered the 19th because the 16th of July was an Italian feast day and his mother was sick and unable to participate in the feast, and that on the 18th, which was Sunday, he asked his sister-in-law to call him, and that the sister-in-law did call him about ten o'clock in the morning, and that later, with Mazzucci and his brother, Buck Joseph and probably someone else, he rode down to Market and Broad streets, or Childs', or somewhere near that point. Buck Joseph, his brother, corroborated Barone with respect to the presence of the defendant at his mother's home on the morning of the 19th at the same time which is alleged by the State to be the time this hold-up was set. I think Mazzucci too testified that he had lived at this home for possibly three months with his wife and two children and he rode down and met Big Joe and he gave Big Joe a $1,000 bill. I think he said he gave it to him as a loan. I cannot recall whether or not he said he was engaged in any business with him, but he said, "I am the one who gave the $1,000 bill to Big Joe." Mr. McDonald, the owner of the garage, testified as to the selling of grease, but he did not see Barone, the defendant, at that time, and I think there was a witness who was referred to as Ambrose, who testified that Barone left in the neighborhood of twelve o'clock. Buck Joseph's wife and sister-in-law of the defendant Barone said that she remembered calling the defendant. She knew it was around ten o'clock in the morning and she said that she had called her



brother-in-law at other times, but I think this was the first time within five or six months that she had done it, but she remembered it was the 19th, because the 16th of July was fixed in her mind.

Officer Manning testified that he was advised of the hold-up sometime thereafter and proceeded in a direction in which he had supposed the green Pierce Arrow car had taken, that he rode as far as the North Newark station, stopping on the way to advise police officers of the happening at the Reid plant. He said he traveled at a speed of approximately sixty-five miles an hour, that he rode back to a point at Bloomfield and Belleville avenues, that he spoke to an officer there and rode around, finally reaching Drift street, in front of Chillie Grande's place, which he knew to be about five minutes to eleven. At that time he saw Big Joe get out of the car with another man, who he now says is Little Joe. He says the reason why he fixes the time at five minutes to eleven is because he made his pull at a signal box. Yesterday Lieutenant Rowe of Police Headquarters testified that Officer Manning made this pull at eleven o'clock at the box which Officer Manning testified he pulled from.

Going back to Mt. Pleasant avenue, a Mr. Oliver, called by the State, said that he was the owner of a series of garages on the west side of Mt. Pleasant avenue and that his attention was directed to shots, that he looked in the direction of Clay street, but his view was obstructed by a truck; that he walked out to the middle of the street, or beyond, and just as he did, a Pierce Arrow, No. 1926, license number 1926, came along and he almost walked into it, and the chauffeur slowed down momentarily and he looked into the

car and he saw Big Joe Juliano sitting in that car and Big Joe smiled at him. Other witnesses have testified that the number of the license on the car which was driven and used to convey the men in the Reid hold-up bore the license plate of No. 1926. Mr. Seigel, I believe, also testified with relation to the attitude of Mr. Condit. He said that he saw Mr. Condit with his right arm raised in the attitude of warding off a blow. I think he said he saw Mr. Condit fall. Yesterday, during the course of the trial, the State called in rebuttal, a Mr. Hyman, who was the janitor at Milford avenue. He testified that he knew Big Joe, he knew Capozzi and he knew Barone; that he had seen them frequently at the Milford avenue address. He said he remembers one day going there in response to a call from Capozzi and got some rent and that that day Little Joe was with the other three defendants. A Mr. Kugel was called upon to stand up in court and was asked if Mr. Kugel were not the man, and he said no. Whether Mr. Kugel was there or not, of course, we have not learned. Mr. Kugel was not called to the stand to testify that it was he who was there on that day and not Little Joe.

I have gone into this testimony more extensively than I intended to do. As I pointed out to you in the early part of the charge, you are the sole judges of the facts in this case, and in measuring the value of testimony from the respective witnesses, you have a right to consider the value of testimony of persons who are alleged to be eye-witnesses, or who have presented themselves as knowing something about this case. You have a right to differentiate, if you see fit, between the respective testimony based upon the



accuracy of the observation of the witnesses, their position at the time of the happening of this tragedy. Then, too, you have a right to consider, in measuring the value of testimony, the interest that anyone has in the outcome of this case.

What interest has the wife, the mother-in-law, the father-in-law, the sisters-in-law, the brother of Little Joe Juliano? What interest has Dot Miller and her mother? What interest has Catherine DeMatto, Amari, Policeman Kelly? What interest have Barone's sister-in-law, brother, and cousin?

You may ask yourselves very properly in considering the testimony of the defendants, in the light of the interest they have in this case.

These men are charged with crime. Your verdict is going to determine whether or not they are convicted or acquitted, and you may very properly consider the interest they have in the outcome of this case. What interest have the police? What interest has Mr. Seigel? Miss Hanley and Miss Gillard and Mr. Oliver?

I have enumerated some of the names, but you may properly ask yourselves what interest any witness has in this case, although I am not mentioning them by name. You have heard witnesses, too, who have admitted a conviction of crime. Of course, the law does not say that because a man was convicted of crime, sometime must be guilty of the instant crime, because of the fact that he had been convicted at some time prior.

I will read the statute itself. "No person offered as a witness in any action or proceeding of a civil or criminal nature shall be excluded by reason of his having been convicted of crime,

but such conviction may be shown on the cross examination of the witness, or, by the production of the record thereof, for the purpose of affecting his credit."

That is why evidence was relevant in this case as to the conviction of crime of people parties to the cause or any witness who has testified before you.

Under the statute, every person convicted of murder in the first degree, his aiders, abettors, counsellors and procurers, shall suffer death, unless the jury shall, by their verdict and as part thereof, upon and after consideration of all the evidence, recommend imprisonment at hard labor for life, in which case this and no greater punishment shall be imposed.

Gentlemen of the jury, you are empaneled, and you are now charged with a solemn duty. No greater duty can be imposed upon a citizen than to pass upon the determination of the question which may cause the extinction of human life by judicial decree. Your responsibility is a grave one. You men are vindicators of the law, charged with responsibility. You should be mindful, on the one hand, of your obligation to the prisoners and, on the other hand, what is due to public justice. Let no fear of responsibility deter you from discharging your duty faithfully, for the consequences that may follow from your verdict neither you nor this Court are responsible. When you have discharged your duty, your responsibility is at an end and you may leave the consequences to the law.



I have some requests to charge.

I have charged the first.

Second. "It is your duty to consider the evidence as to each of the defendants and to base your verdict as to each of such defendants upon the evidence affecting such defendants respectively, and if the evidence fails to convince you beyond a reasonable doubt of the guilt of such defendants respectively, it is your duty to acquit each of such defendants as to whom you have a reasonable doubt of guilt." I so charge you.

Three. "In order for the jury to reach a verdict either of guilty or of not guilty, each and every juror must agree to such verdict, as the verdict must be unanimous and not by a mere majority vote of the jurors. It is the duty of each juror to vote to acquit if such juror is not convinced beyond a reasonable doubt of the defendants' guilt." I so charge you. Of course, it equally applies, too, if you are satisfied that the guilt is beyond a reasonable doubt, you ought to vote to convict.

Four. "In determining the guilt or innocence of the defendants and each of them, you may take into consideration not only the evidence in the case, but also the lack of such evidence as you deem to be essential in determining beyond a reasonable doubt the defendants' guilt or innocence." I so charge you.

Five. "The defense in this case of the three defendants, Joseph Juliano, Louis Capozzi and Christopher Barone, is that of complete innocence of the commission of the crime charged in the indictment and in conjunction with and in support thereof, these defendants have testified that they

were not at the place where it was committed when it was committed, and this feature of the evidence is termed in law an alibi, and if a reasonable doubt of guilt is raised, even by inconclusive evidence of an alibi, the defendants, and each of them, are entitled to the benefit of that doubt and to an acquittal."

This a request from counsel for the three defendants whom I have named. I will also say it equally applies to Little Joe, or Nicholas Joseph Juliano. I charge that.

Six. "Certain motions for directions of verdict of acquittal were made to the Court by these defendants"—I will include here all defendants—"which the Court denied, but you must not consider the rulings of the Court as any determination of any of the facts in dispute." I so charge you.

The seventh I deny because I have previously charged on that question.

Eight. "Although the four (4) defendants are indicted and tried jointly, you must consider each defendant's case separately, applying the evidence to his case which, under this charge, is admissible against or binding upon him, and if you find that the State has not sustained the burden of proving such one or more of the defendants guilty beyond a reasonable doubt, then such defendant or defendants is or are entitled to an acquittal." I so charge you.

The ninth I deny because I have already charged it in my main charge.

The tenth I will deny.

The eleventh, "The circumstances of this case are such that Boudreau's testimony is the testimony of an alleged accomplice and the jury has the right to exercise care and caution in convicting upon the testimony of such alleged accomplice." Supplementing that I will say that under the law of this State if you are satisfied as to the credibility of Boudreau's testimony and satisfied beyond a reasonable doubt as to that, the fact that he is an accomplice will not of itself destroy his testimony.



The twelfth I deny.

Thirteenth. "In the investigation of all matters of fact and in the weighing of evidence, the jury has no right to assume the guilt of the defendants and then try to reconcile the testimony with such theory, but it is the sworn duty of the jury to presume the innocence of the defendants and to give them the benefit of such presumption all through the trial and at every stage of the investigation of the evidence in the jury room until it is overcome, if it shall be overcome, by proof beyond a reasonable doubt, and the evidence in order to establish the guilt of the defendants must not only be consistent with the theory of guilt but must be inconsistent with and exclude every reasonable theory of innocence, and as long as the jury are able to reconcile the evidence with any reasonable theory of the innocence of the defendants, the law makes it their duty so to do; and if, upon a full consideration of all the facts in the case, the jury entertain a reasonable doubt as to whether these defendants are guilty of the crime charged against them in the indictment, then you should find them "Not guilty." I so charge you.

Fourteenth. "The Court instructs the jury that it is the duty of the jury to consider the

question of the guilt or innocence of each of these defendants, bearing in mind that each defendant has the right to have the evidence separately applied to him, and that while the indictment charges them all jointly, the presumption as to each defendant is that he is innocent, and he has a right to have the evidence applied to him exactly as if he came to trial alone." I so charge you.

The fifteenth I will deny because I have already charged it.

The sixteenth I will deny.

The seventeenth I will deny.

The eighteenth I will deny.

The nineteenth I will deny.

The twentieth I will deny or, rather, I will charge the twentieth. "You may take into consideration in determining the credibility to be given to the testimony of any witness, the probabilities and reasonableness of the truth of all of his statements in evidence, and if you find that the testimony of any witness is improbable in any essential part and is not believed by the jury, the jury has the right to reject the remainder of such witness' testimony if it believes him unworthy of belief." I so charge you.

The twenty-first I will deny.

The twenty-second I will deny.

The twenty-third I will deny.

The twenty-fourth, twenty-fifth and twenty-sixth I will deny because I have previously charged them.



When I read to you the statute in this case, I pointed out that the crime these men are charged with is murder and that the statute makes a murder in the perpetration of a robbery to be murder in the first degree. I charge you that in this case your verdict ought to be, if you believe the defendants or any of them, guilty of murder in the first degree. If you are not satisfied from the proof that the State has made out a case beyond a reasonable doubt as to any or all, your verdict ought to be not guilty. In other words, there should be one of two verdicts, a verdict of murder in the first degree or an acquittal.

Mr. Kavanagh: Will your Honor kindly specify in my requests to charge the particular ones you denied by number?

The Court: Your requests were submitted after the summation. They should be submitted before.

Mr. Kavanagh: Well, I understand the rule to be the requests to charge are submitted either before his Honor instructs the jury—

The Court: That is not arguable, Mr. Kavanagh. It is settled.

Mr. Kavanagh: I ask for an exception.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,

(SEAL) Judge.

(The jury retires.)

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to the charge of the Court wherein the Court stated that the witness Seigel

said he was less certain of Big Joe than any of the rest, on the ground that he said finally that he was not sure or not certain of Big Joe's identity.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the Court's charge which stated, in effect, what the alibis of the defendant Capozzi and the defendant Big Joe Juliano consist of, on the ground that the Court misstated entirely the testimony of the witness Capozzi with respect to his alibi and insofar as he was a witness to the alibi of Big Joe, and that the Court misstated the evidence given by Big Joe with respect to where he went in the following respect, the Court said that he, Capozzi, testified that he had an appointment at twelve o'clock to meet Barone and Big Joe, this being unfounded in any evidence whatsoever in the case, and where the Court said that the witness Shelters said that on Sunday he had given a duplicate set of papers to Max Silverman which is not supported by any evidence in the case but, on the contrary, the evidence is that Silverman got them on Saturday at the Packard place.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi



prays an exception to that portion of the charge wherein the Court charged the jury that Silverman testified that he drove the car in front of his brother's restaurant and after that went to Belleville without including the fact that Silverman and other persons testified of accompanying him on the trip to Belleville, was the defendant Capozzi himself.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge wherein the Court stated that he, Capozzi, testified that he had an appointment with Barone and Big Joe, which is contrary to the evidence.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the Court's charge wherein the Court stated that Capozzi testified that he had an appointment to go to Weber & Heilbroner's with Big Joe and Christopher Barone, on the ground that there is no such evidence in the case.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge wherein the Court stated that the witness Kelly testified that he drove with Big Joe downtown to keep an appointment with Capozzi and Barone, on the ground that there is no such evidence in the case whatever to the effect that there was any meeting or appointment for the three defendants to meet at noon or at any time.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge wherein the Court charged the jury that the witness McDonald testified that he did not see Barone, the defendant, at the time the car was greased, the evidence being that he may or may not have seen him, but did not remember whether he did or not.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge wherein the Court instructed the jury that Officer Manning testified that at that time, meaning at around eleven o'clock on July 19th, he saw Big Joe get out of a car with a man "whom he now says is Little Joe" upon the ground that



the officer's testimony was definitely and positively that he is not sure that the man is Little Joe.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge wherein the Court stated that a police lieutenant testified yesterday that Officer Manning made this pull at eleven o'clock, on the ground that the officer did not testify to this at all, but testified that he had in his possession a piece of tape upon which matters were written and upon which tape, later excluded from evidence, showed a record or writing in lead pencil that Officer Manning had made such a pull, but not with the knowledge of the lieutenant himself.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge which instructed the jury about the testimony of Mr. Hyman and called the attention of the jury to the fact that Mr. Kugel was not called to the stand, upon the ground that the Court is not entitled to comment upon the non-production of a specific witness to matters not part of the direct case against the defendants.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to the inclusion by the Court of the evidence of various witnesses, including an alleged eye-witness, and the complete omission of any reference to any of the eye-witnesses of the defendants called by the defense.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge which asked the jury what interest has, naming certain witnesses, on the ground that the Court named only witnesses who were related to the defendants and omitted references to the witnesses Osborne, Geldart, McFarland, Shelters, and numerous others who were not related to the defendants and to whom the Court's query could not have militated against as against relatives.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge which states that it is the obligation of the jury



to perform its duty by remembering its obligation on the one hand to the prisoners and on the other hand to public justice, on the ground that this is calculated to instruct the jury that their obligations to public justice are inconsistent with their obligations to the defendants and that the rendition of their duty to the defendants would be contrary to public justice.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to that portion of the charge which instructs the jury that, at the end thereof, there either should be a verdict of not guilty or guilty of murder in the first degree, upon the ground that this excludes and eliminates another verdict which the jury would be entitled to render, which would be guilty of murder in the first degree with a recommendation for life imprisonment.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to the fact that the Court, in reading the requests to charge, did so with such rapidity that the jury could not grasp or conceive the meaning thereof, and because they were read with greater rapidity than the main charge was delivered.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays a general exception to the charge of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

The Court: To clear up any possible misunderstanding that the jury might forget what their duty is, I will call the jury back and instruct them as to the effect of the Court's reference to the testimony. You may bring the jury back.

Counsel for defendant Nicholas Joseph Juliano, alias Little Joe, prays a general exception to the entire charge of the Court.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

Counsel for defendant Nicholas Joseph Juliano, alias Little Joe, prays an exception to the Court's refusal to specify in detail, by number, the requests that the Court refused to charge in the requests to charge submitted to the Court an hour before the Court charged the jury.

Exception allowed; let it be sealed, and it is signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.



The Court: I will say I refused that because the requests submitted were after counsel for the State and defense had summed up.

Mr. Kavanagh: I except to that, if your Honor please, because there is no law and no ruling—

The Court: I told you it was not arguable.

Counsel for defendants Christopher Barone, Joseph Juliano, alias Big Joe, and Louis Capozzi prays an exception to the refusal of the Court to charge the first request to charge, as requested, the seventh request to charge, as requested, the sixth request to charge specifically as requested, the ninth request to charge as requested, the tenth request to charge as requested, the twelfth request to charge as requested, the fifteenth request to charge as requested, the sixteenth request to charge as requested, the seventeenth, eighteenth, nineteenth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth and twenty-sixth, a separate exception being taken respectively to the failure to charge each particular request.

Exceptions allowed; let them be sealed, and they are signed and sealed accordingly.

EDWIN C. CAFFREY,
(SEAL) Judge.

(The jury returns into court.)

CAFFREY, *J.*

My attention has been directed to some references of mine with regard to the testimony. I will read to you again part of my charge.

The jury are the sole judges of the facts, the weight of the testimony, the credibility of the witnesses, the inferences to be drawn from the evidence and the ultimate conclusions to be reached upon all the facts. The Court, in referring to the evidence, is not to be understood as deciding any facts, but merely as attempting to elucidate the evidence for the convenience or assistance of the jury, or to illustrate and explain the application of the principles of law. If the Court errs in its statement of any evidence or assumes the existence of evidence that is not actually before the jury, the jury are to rely upon their own recollections and not upon the recollection of the Court. If any part of the evidence is referred to, seemingly giving it particular emphasis, the jury are not to disregard other evidence which they may deem of greater importance. It is the duty of the jury to consider all the evidence and pertinent proof bearing upon the questions involved in this matter before the jury, not only those matters which are mentioned by the Court, but upon all the evidence which has been presented here before you.

(The jury retires.)



(The jury returns into court.)

CAFFREY, *J.*

Gentlemen, I have your note: "Can a verdict be given in the first degree with life imprisonment?"

I will restate what I charged in my main charge. Every person convicted of murder in the first degree, his aiders, abettors, counsellors and procurers shall suffer death unless the jury shall, by their verdict and as a part thereof, upon and after consideration of all the evidence, recommend life imprisonment at hard labor for life, in which case this and no greater punishment shall be imposed.

Is that sufficiently clear?

(The jury retires.)

## REQUESTS TO CHARGE OF DEFENDANTS JOSEPH JULIANO, LOUIS CAPOZZI AND CHRISTOPHER BARONE.

1. The defendants, and each of them, in this case are presumed to be innocent and the burden of proof is upon the State to prove them guilty of the charge contained in the indictment beyond a reasonable doubt, and if the evidence fails to convince you beyond a reasonable doubt of the guilt of these defendants, it is your duty to acquit.

2. It is your duty to consider the evidence as to each of the defendants and to base your verdict as to each of such defendants upon the evidence affecting such defendants respectively, and if the evidence fails to convince you beyond a

reasonable doubt of the guilt of such defendants respectively, it is your duty to acquit each of such defendants as to whom you have a reasonable doubt of guilt.

3. In order for the jury to reach a verdict either of guilty or of not guilty, each and every juror must agree to such verdict, as the verdict must be unanimous and not by a mere majority vote of the jurors. It is the duty of each juror to vote to acquit if such juror is not convinced beyond a reasonable doubt of the defendants' guilt.

4. In determining the guilt or innocence of the defendants and each of them, you may take into consideration not only the evidence in the case, but also the lack of such evidence as you deem to be essential in determining beyond a reasonable doubt the defendants' guilt or innocence.

5. The defense in this case of the three defendants Joseph Juliano, Louis Capozzi and Christopher Barone, is that of complete innocence of the commission of the crime charged in the indictment and in conjunction with and in support thereof, these defendants have testified that they were not at the place where it was committed when it was committed, and this feature of the evidence is termed in law an alibi, and if a reasonable doubt of guilt is raised, even by inconclusive evidence of an alibi, the defendants, and each of them, are entitled to the benefit of that doubt and to an acquittal.

6. Certain motions for directions of verdict of acquittal were made to the Court by these defendants which the Court denied, but you must not consider the rulings of the Court as any determination of any of the facts in dispute or even as indications of the Court's opinion as to the facts, the Court having merely ruled that the evidence presents questions of fact for the jury rather than questions of law for the Court.



7. In considering the question of the guilt of each of these defendants, I charge you that you are not to take into consideration the fact that such defendants have been previously convicted of crime, except so far as this fact may affect their credibility as witnesses in this case, and under no circumstances may you take it into consideration as creating any probability that the defendants, or any of them, were guilty of the crime charged in the indictment, nor should it influence you in any way in passing upon their conduct or actions at the time mentioned in the indictment.

8. Although the four (4) defendants are indicted and tried jointly, you must consider each defendant's case separately, applying the evidence to his case which, under this charge, is admissible against or binding upon him, and if you find that the State has not sustained the burden of proving such one or more of the defendants guilty beyond a reasonable doubt, then such defendant or defendants is or are entitled to an acquittal.

9. In this case, the presence of these defendants at the scene of the commission of the crime must be proven beyond a reasonable doubt, and if you have a reasonable doubt as to the presence of any of the defendants at such scene of the crime, then such defendants as you have a reasonable doubt in respect to must be acquitted. Even if the jury should find that any particular

defendant has not proven his absence from the scene of the crime, or his alibi, yet if the testimony as to such alibi creates such a degree of uncertainty as to his whereabouts that the jury is not satisfied beyond a reasonable doubt of his guilt of the crime for which he is indicted, he is entitled to an acquittal.

10. The jury is instructed that the indictment in this case is of itself a mere accusation or charge against the defendants and creates no presumption whatever of their guilt and is not of itself any evidence of the guilt of the defendants who are presumed to be innocent in spite of the indictment.

11. The circumstances of this case are such that Boudreau's testimony is the testimony of an alleged accomplice and the jury has the right to exercise care and caution in convicting upon the testimony of such alleged accomplice, and the jury has the right and it is its duty to scrutinize with great care, the motives which may have actuated Boudreau and his general credibility as a witness before accepting his testimony as true.

12. The Court instructs the jury that the law does not require that the defendants sustain the burden of proving themselves innocent, but the law imposes upon the prosecution the burden of proving that the defendants are guilty in manner and form as charged in the indictment beyond a reasonable doubt.

13. In the investigation of all matters of fact and in the weighing of evidence, the jury has no right to assume the guilt of the defendants and then try to reconcile the testimony with such theory, but it is the sworn duty of the jury to presume the innocence of the defendants and to



give them the benefit of such presumption all through the trial and at every stage of the investigation of the evidence in the jury room until it is overcome, if it shall be overcome, by proof beyond a reasonable doubt, and the evidence in order to establish the guilt of the defendants must not only be consistent with the theory of guilt but must be inconsistent with and exclude every reasonable theory of innocence, and as long as the jury are able to reconcile the evidence with any reasonable theory of the innocence of the defendants, the law makes it their duty so to do; and if, upon a full consideration of all the facts in the case, the jury entertain a reasonable doubt as to whether these defendants are guilty of the crime charged against them in the indictment, then you should find them "Not guilty."

14. The Court instructs the jury that it is the duty of the jury to consider the question of the guilt or innocence of each of these defendants, bearing in mind that each defendant has the right to have the evidence separately applied to him, and that while the indictment charges them all jointly, the presumption as to each defendant is that he is innocent, and he has a right to have the evidence applied to him exactly as if he came to trial alone.

15. The jury are further instructed that if, upon a fair and impartial consideration of all the evidence in the case, they find that there are two reasonable theories equally supported by the testimony in the case, and that one of such theories is consistent with the innocence of the defendants, then it is the policy of the law, and the law makes it the duty of the jury to adopt that

theory which is consistent with the innocence of the defendants, and to find the defendants not guilty.

16. You may take into consideration as affecting the credibility of the witness Boudreau, the fact that he admitted having previously made statements contrary to his testimony in this trial, and if you believe that the witness Boudreau, by reason of this fact or by reason of the fact that he has previously been convicted of crime, is totally unworthy of belief, then you are entitled to entirely disregard his testimony in this case.

17. You may take into consideration the fact that some of the witnesses identifying the defendants, or some of them, in their testimony, had previously to their picking them out of a line-up, seen pictures of the defendants in newspapers, and if you find that such previous view of pictures of the defendants caused such witnesses to pick the defendants out at such line-up and to identify them at the trial and that such identification was not the result of a recollection and memory of seeing the defendants at the scene of the hold-up, then you may disregard the evidence of such witnesses as to the identity and guilt of these defendants.

18. You may take into consideration as affecting the credibility of the witness Seigel, the evidence that he previously picked out one Bielke as one of the five persons whom he testified he saw at the scene of the crime committing the same.

19. The jury may take into consideration as affecting the credibility and accuracy of each witness, the conflicts between the testimony of such witness and the various other witnesses for the State as to the defendants seen or recognized



by such witness according to his testimony at the trial.

20. You may take into consideration in determining the credibility to be given to the testimony of any witness, the probabilities and reasonableness of the truth of all of his statements in evidence, and if you find that the testimony of any witness is improbable in any essential part and is not believed by the jury, the jury has the right to reject the remainder of such witness' testimony if it believes him unworthy of belief.

21. The jury should take into consideration the fact that several witnesses testified for the defendants who testified that they were present at the scene and time of the hold-up and who saw some of the perpetrators of the crime and who have testified that the defendants were not the persons seen by them, and if such evidence raises a reasonable doubt of the guilt of the defendants, it is the duty of the jury to acquit.

22. The jury may take into consideration the fact that there is a complete lack of evidence of any previous or subsequent association of these defendants before or after the alleged crime, with the witness Boudreau, confessed participant in such crime, as affecting the credibility of the witness Boudreau and as entering into the probabilities of the guilt or innocence of these defendants.

23. The jury may take into consideration as affecting the credibility of the testimony of the witness Boudreau to the effect that he knew and participated in the crime with these defendants, the evidence that before picking them from a line-up at headquarters before the trial and be-

fore giving his evidence in the trial, he obtained a view of them while he was concealed or partly concealed in a telephone booth at police headquarters.

24. If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant Joseph Juliano is guilty, he is entitled to an acquittal.

25. If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant Louis Capozzi is guilty, he is entitled to an acquittal.

26. If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant Christopher Barone is guilty, he is entitled to an acquittal.

## DEFENDANT NICHOLAS JOSEPH JULIANO'S REQUESTS TO CHARGE.

1. This defendant is presumed to be innocent and the burden of proof is upon the State to prove him guilty of the charge contained in the indictment beyond a reasonable doubt, and if the evidence fails to convince you beyond a reasonable doubt of the guilt of this defendant, it is your duty to acquit.

2. In order for the jury to reach a verdict either of guilty or of not guilty, each and every juror must agree to such verdict, as the verdict must be unanimous and not by a mere majority of the jurors. It is the duty of each juror to vote to acquit if such juror is not convinced beyond a reasonable doubt of the defendant's guilt.



3. In determining the guilt or innocence of this defendant, you may take into consideration not only the evidence in the case, but also the lack of such evidence as you deem to be essential in determining beyond a reasonable doubt the defendant's guilt or innocence.

4. The defense in this case of the defendant, Nicholas Joseph Juliano, is that of complete innocence of the commission of the crime charged in the indictment and in conjunction with and in support thereof, this defendant has testified that he was not at the place where the alleged crime was committed, when it was committed, and this feature of the evidence is termed in law an alibi and if a reasonable doubt of guilt is raised, even by inconclusive evidence of an alibi, this defendant is entitled to the benefit of that doubt and to an acquittal.

5. Certain motions for directions of verdict of acquittal were made to the Court by this defendant which the Court denied, but you must not consider the rulings of the Court as in determination of any of the facts in dispute or even as indications of the Court's opinion as to the facts, the Court having merely ruled that the evidence presents questions of facts for the jury rather than questions of law for the Court.

6. In considering the question of the guilt of this defendant, I charge you that you are not to take into consideration the fact that such defendant has been previously convicted of crime except as far as this fact may affect his credibility as a witness in this case, and under no circumstances may you take it into consideration as creating any probability that this defendant was guilty of the crime charged in the indictment,

nor should it influence you in any way in passing upon his conduct or actions at the time mentioned in the indictment.

7. In this case the presence of this defendant at the scene of the commission of the crime must be proven beyond a reasonable doubt and if you have a reasonable doubt as to the presence of this defendant at such scene of the crime then he must be acquitted. Even if the jury should find that this defendant has not proven his absence from the scene of the crime, or his alibi, yet if the testimony as to such alibi creates such a degree of uncertainty as to his whereabouts that the jury is not satisfied beyond a reasonable doubt of his guilt of the crime for which he is indicted he is entitled to an acquittal.

8. The jury is instructed that the indictment in this case is of itself a mere accusation or charge against this defendant and creates no presumption whatever of his guilt and is not of itself an evidence of the guilt of this defendant who is presumed to be innocent in spite of the indictment.

9. The circumstances of this case are such that Boudreau's testimony is the testimony of an alleged accomplice and the jury has the right to exercise care and caution in convicting upon the testimony of such alleged accomplice, and the jury has the right and it is its duty to scrutinize with great care the motives which may have actuated Boudreau and his general credibility before accepting his testimony as true.

10. The Court instructs the jury that the law does not require that this defendant sustain the burden of proving himself innocent, but the



law imposes upon the prosecution the burden of proving that this defendant is guilty in manner and form as charged in the indictment beyond a reasonable doubt.

11. In the investigation of all matters of fact and in the weighing of the evidence, the jury has not the right to assume the guilt of this defendant and then try to reconcile the testimony with a theory, but it is the sworn duty of the jury to presume the innocence of this defendant and to give him the benefit of such presumption all through the trial and at every stage of the investigation of the evidence in the jury room until it is overcome, if it should be overcome by proof beyond a reasonable doubt, and the evidence in order to establish the guilt of this defendant must not only be consistent with the theory of guilt, but must be inconsistent with and exclude every reasonable theory of innocence and as long as the jury are able to reconcile the evidence with any reasonable theory of the innocence of this defendant, the law makes it their duty so to do; and if, upon a full consideration of all the facts in the case, the jury entertain a reasonable doubt as to whether this defendant is guilty of the crime charged against him in the indictment, then you should find him "not guilty."

12. The jury are further instructed that if, upon a fair and impartial consideration of all the evidence in the case, they find that there are two reasonable theories equally supported by the testimony in the case, and that one of such theories is consistent with the innocence of this defendant, then it is the policy of the law and the law makes it the duty of the jury to adopt that

theory which is consistent with the innocence of this defendant and to find him not guilty.

13. You may take into consideration as effecting the credibility of the witness Boudreau, the fact that he admitted having previously made statements contrary to his testimony in this trial, and if you believe that the witness Boudreau, by reason of this fact or by reason of the fact that he has previously been convicted of crime, is totally unworthy of belief, then you are entitled to entirely disregard his testimony in this case.

14. You may take into consideration as effecting the credibility of the witness Seigel, the evidence that he previously picked out one Bielke as one of the five persons whom he testified he saw at the scene of the crime committing the same.

15. The jury may take into consideration as effecting the credibility and accuracy of each witness, the conflicts between the testimony of such witness and the various other witnesses for the State as to the defendant being seen or recognized by such witness according to his testimony at the trial.

16. You may take into consideration in determining the credibility to be given to the testimony of any witness, the probabilities and reasonableness of the truth of all his statements in evidence, and if you find that the testimony of any witness is improbable in any essential part and is not believed by the jury, the jury has the right to reject the remainder of such witness' testimony as it believes him unworthy of belief.

17. The jury should take into consideration the fact that several witnesses testified for this defendant, who testified that they were present



at the scene and time of the hold-up and who saw some of the perpetrators of the crime and who have testified that this defendant was not the person seen by them, and if such evidence raises a reasonable doubt of the guilt of this defendant, it is the duty of the jury to acquit.

18. The jury may take into consideration as effecting the credibility of the testimony of the witness Boudreau to the effect that he knew and participated in the crime with this defendant, the evidence that before picking him from the line-up at headquarters before the trial and before giving his evidence in the trial he obtained a view of him while he was concealed or partly concealed in the telephone booth at Police Headquarters.

19. If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant Nicholas Joseph Juliano is guilty, he is entitled to an acquittal.

*Certificate of Stenographers.*

ESSEX COUNTY COURT OF OYER AND TERMINER.

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| STATE OF NEW JERSEY,<br>*vs.*<br>CHRISTOPHER BARONE, JOSEPH JULIANO, alias BIG JOE, LOUIS CAPOZZI, NICK JOSEPH JULIANO, alias LITTLE JOE. | *Indictment No. 276, Sep. T, 1926, for Murder.*<br>*Certificate of Stenographers.* |

We, Harold T. Cook and Joseph S. Fishkind, official stenographers of the Essex County Court of Oyer and Terminer, do hereby certify that the foregoing transcript contains the entire record of the proceedings and testimony taken by us at the trial of the case of the State of New Jersey *v.* Christopher Barone, Joseph Juliano, alias Big Joe, Louis Capozzi, Nick Joseph Juliano, alias Little Joe, on an indictment for murder, which trial was held before the Hon. Edwin C. Caffrey, Presiding Judge of the Essex County Court of Oyer and Terminer, in and for the County of Essex, and a jury, from Monday, November 15, to Thursday, December 2, 1926, both dates inclusive, at Newark, N. J.

Dated January 10, 1927.

HAROLD T. COOK.
JOSEPH S. FISHKIND.



*Certificate of Judge.*

ESSEX COUNTY COURT OF OYER AND TERMINER.

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| STATE OF NEW JERSEY,<br>*vs.*<br>CHRISTOPHER BARONE, JOSEPH JULIANO, alias BIG JOE, LOUIS CAPOZZI, NICK JOSEPH JULIANO, alias LITTLE JOE. | *Indictment No. 276, Sep. T., 1926, for Murder.*<br>*Certificate of Judge.* |

I, Edwin C. Caffrey, Presiding Judge of the Essex County Court of Oyer and Terminer, and the Judge who presided over the aforesaid cause, do hereby certify, that the above printed book contains the entire record of the proceedings had upon the trial of the said cause, and that the same is returned by the plaintiffs-in-error therein with the writ of error bringing up the bill of exceptions signed and sealed in this cause.

Dated, Newark, N. J., January 10, 1927.

EDWIN C. CAFFREY,
Presiding Judge of the Essex County
Court of Oyer and Terminer.

## ASSIGNMENT OF ERRORS.

## New Jersey Court of Errors and Appeals

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| THE STATE OF NEW JERSEY, *Defendant-in-Error,* | *On Indictment for Murder.* |
| *vs.* | *On Writ of Error to Essex Oyer and Terminer.* |
| JOSEPH JULIANO alias "Big Joe," CHRISTOPHER BARONE and LOUIS CAPOZZI, alias "Kid Roff," *Plaintiffs-in-Error.* | *Assignment of Errors.* |

Afterwards, to wit, on the return day of said writ of error, before our Judges of our Court of Errors and Appeals, in the last resort at Trenton, come the said Joseph Juliano, alias "Big Joe," Christopher Barone and Louis Capozzi, alias "Kid Roff," plaintiffs-in-error, by John W. McGeehan, Jr., their attorney, and say, that in the record and proceedings aforesaid, and also in the giving of judgment as aforesaid there is manifest error in this, to wit:

1. Because the Trial Court refused to grant the motion of these defendants for a severance of the indictment and for a separate trial from the defendant, Nicholas Joseph Juliano, jointly indicted with them.

2. Because the Court refused to grant the motion of the defendants for a postponement of the trial upon the indictment for murder returned against them.



3. Because the Court overruled the challenge of the defendants to the array of the jurors upon the ground that the special panel served upon the defendants was improperly drawn, and the names thereon improperly selected from a list or box that did not contain the names of all the jurors drawn and summoned to attend as jurors at the term for which the defendants were to be tried.

4. Because the Trial Court sustained the challenge for cause made by the State against Robert C. Hoffman, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Robert G. Hoffman for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

5. Because the Trial Court sustained the challenge for cause made by the State against Fred W. Lyon, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Fred W. Lyon for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

6. Because the Trial Court sustained the challenge for cause made by the State against William H. Billings, one of the jurors or talesmen, upon the special and general panel, and dismissed the said William H. Billings, for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

7. Because the Trial Court sustained the challenge for cause made by the State against Frank Farley, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Frank Farley for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

8. Because the Trial Court sustained the challenge for cause made by the State against Charles S. Weiss, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Charles S. Weiss for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

9. Because the Trial Court sustained the challenge for cause made by the State against Herbert A. Gries, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Herbert A. Gries for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

10. Because the Trial Court sustained the challenge for cause made by the State against John F. Moore, one of the jurors or talesmen, upon the special and general panel, and dismissed the said John F. Moore for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.



11. Because the Trial Court sustained the challenge for cause made by the State against John Christiansen, one of the jurors or talesmen, upon the special and general panel, and dismissed the said John Christiansen for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

12. Because the Trial Court sustained the challenge for cause made by the State against Edgar C. Desch, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Edgar C. Desch for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

13. Because the Trial Court sustained the challenge for cause made by the State against Harry H. Gimbel, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Harry H. Gimbel for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

14. Because the Trial Court sustained the challenge for cause made by the State against George R. Jordan, one of the jurors or talesmen, upon the special and general panel, and dismissed the said George R. Jordan for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

15. Because the Trial Court sustained the challenge for cause made by the State against Henry M. Beckban, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Henry M. Beckman for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

16. Because the Court overruled the objection of the defendants to the admission of a photograph in evidence, which photograph showed movable objects, to wit, an automobile and a motor truck which were not and which were not proven to have existed and have been in the same positions at the time of the commission of the crime.

17. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel on cross examination to the State witness, Boudreau: "Q Who did you go around with about the time this hold-up occurred, who were your friends?"

18. Because the Court sustained the objection of the prosecutor to the following question put to the witness, Boudreau, on cross examination by defendants' counsel: "Q How long after that was the next one signed?"

19. Because the Court sustained the objection of the prosecutor to the following question put to the witness, Boudreau, by defendants' counsel on cross examination: "Q Two statements you made before and which you signed differ from each other, and differ from the testimony given by you at this trial?"



20. Because the Court sustained the objection of the prosecutor to the following question put to the witness, Boudreau, on cross examination by defendants' counsel: "Q The two statements that you previously signed differed from each other, did they not?"

21. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel to the witness, Boudreau, on cross examination: "Q Out with him on various jobs, haven't you?"

22. Because the Court sustained the objection of the prosecutor to the following question put to the witness, Boudreau, by defendants' counsel on cross examination: "Q And they committed crimes with you, did they not, did they not?"

23. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel on cross examination to the witness, Seigel: "Q Did you tell the officer that came to your store, the detective, that one of the persons you saw was a young man about thirty-five years old, 5-11, and thin faced and light complexion?"

24. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel on cross-examination to the witness Seigel: "Q Who was that officer, do you know what his name was?"

25. Because the Court sustained the objection of the prosecutor to the following questions put by defendants' counsel on cross examination to the witness Seigel: "Q Were you shown by the detectives who came to your store a police circular saying four men were sought, and one of

them was of light complexion?'' ''Q Were you shown that, and did you say that the description of those four men there was correct?''

26. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel on cross examination to the witness Seigel: ''Q Now, I ask you this question. If you were shown pictures of these men you did not identify them as being the men you saw participate in the hold-up, did you?''

27. Because the Court sustained the objections of the prosecutor to the following questions put by defendants' counsel to the witness Seigel on cross examination: ''Q Who do you remember as being shown the pictures?'' ''Q You do know what other persons were shown the pictures?'' ''Q Without telling who the parties were?'' ''Q Do you know who the parties were who were shown the pictures at Headquarters?''

28. Because the Court sustained the objection of the prosecutor to the following question put to the witness Seigel on cross examination by defendants' counsel: ''Q Do you know that a member of these twenty-five people were detectives without your being able to remember their faces here?''

29. Because the Court sustained the objection of the prosecutor to the following question put to the witness Seigel on cross examination by defendants' counsel: ''Q Didn't you tell the detectives who came to your store a couple of days after the hold-up, that there were four men and not five men in the hold-up;'' and to the question: ''Q You know what detective I mean without giving his name?''



30. Because the Court sustained the objection of the prosecutor to the following question put to the witness Seigel on cross examination by defendants' counsel: ''Q Did you tell the police that you saw a tall blond man there?''

31. Because the Court overruled the objections of defendants' counsel to the following questions put to the witness Duff by the prosecutor: ''Q Where were these other line-ups?'' ''Q Where was the other?'' ''Q Was there any line-up anywhere else that you attended?'' ''Q Now, at any of these line-ups outside of the line-up of Sunday, October 17th, did you see any man that you saw at the hold-up on July 19th.''

32. Because the Court overruled the objection of the defendants' counsel to the following question put to the witness Kenny by the prosecutor: ''Q What case was he present in connection with?'' and in overruling the motion of defendants' counsel to strike out the answer thereto: ''A He was brought in reference to the Ward case;'' and in overruling the motion of defendants' counsel for a mistrial by reason of said question and answer.

33. Because the trial Court overruled the objections of defendants' counsel to the following question put to the witness Harrington by the prosecutor: ''Q Did any of these three men give you anything to keep for him while he was in the baths or they were in the baths?'' and ''Q What did he give you?'' and allowing said witness to testify: ''A Revolvers, wrapped in a cloth.''

34. Because the Trial Court sustained the objection of the prosecutor to the following ques-

tions put by defendants' counsel to the witness Miss Hanley, on cross examination: "Q Now, you have been mistaken in your young lifetime on memory of faces?" and "Q Have you ever tested your ability to remember faces?" and "Q Have you ever in any way trained yourself to remember faces?"

35. Because the Trial Court sustained the objection of the prosecutor to the following question put to the witness Joseph Juliano on cross examination by defendants' counsel: "Q Was Philip Seigel shown the pictures of the defendants, or any of them right after this hold-up had occurred?"

36. Because the Trial Court sustained the objection of the prosecutor to the following question put to the witness Brex by defendants' counsel on cross examination: "Q Did you ever show a man by the name of Gildart the pictures of a man in this case, of the defendants, any of them?" and "Q Now, none of the defendants in this case were picked out by photographs by any of the eye witnesses of the hold-up after it occurred, were they?" and "Q The persons that you have said in your direct testimony picked the defendants out in the line-ups, never picked out the photographs of any of the defendants shortly after the Reid hold-up occurred, did they?"

37. Because the Trial Court sustained the objection of the prosecutor to the following question put to the witness Brex by defendants' counsel on cross examination: "Q Did Seigel tell you that he saw and recognized five people right after this hold-up occurred?"



38. Because the Trial Court sustained the objection of the prosecutor to each of the following questions put to the witness Brex on cross examination by defendants' counsel: "Q Did you ever know whether Boudreau was a companion of Pete Rogers and DePhillips?" "Q Did you ever find out whether Boudreau went around with any men who had a relative who was paymaster in the Reid company?" "Q Did you ever find out how Boudreau knew Condit?" "Q Do you know whether or not Boudreau hung out around the corner there of the Reid company?" "Q Did you question Boudreau about whether he did or not?"

39. Because the Trial Court sustained the objection of the prosecutor to the proof of a letter to contradict the State's witness Boudreau during the testimony of the witness Miss Sorenson.

40. Because the Trial Court sustained the objection of the prosecutor to the following questions put to the witness Miss Sorenson by defendants' counsel on direct examination: "Q Do you remember being in an automobile with him that stopped in front of a lunch wagon in front of Clay street and Broad street, and that he called a man out of the lunch wagon and said he would be back later—'We got a big job on tonight?'" and "Q Can you tell us what the man looks like that he called out of that lunch wagon the night before he was arrested?"

41. Because the Trial Court overruled the objections of defendants' counsel to the following questions put by the prosecutor on cross examination of the witness Silverman: "Q Didn't you in that conversation tell Mr. Bigelow that

you had made sixty or seventy thousand dollars in that business, but that you had—that you made sixty or seventy thousand dollars in July and had dropped it all?" "Q You were trying to get Mr. Bigelow to relieve you of some liability on a bail bond at that time, weren't you?" "Q And didn't you have that conversation with him to give him the impression, convey to him the impression that you were broke and to let down on you?"

42. Because the Trial Court overruled the objection of defendants' counsel to the following question put to the witness Kelly by the prosecutor on cross examination: "Q How did you happen to leave the force?" and allowing the witness to answer: "A I got dismissed."

43. Because the Trial Court sustained the objection of the prosecutor to the following questions put to the witness Myrtle Foster by defendants' counsel: "Q Well, why didn't you tell it when I was questioning you when we had Mr. McKenna and Mr. Corrigan there to hear what you were saying, why didn't you tell us then?"

44. Because the Trial Court sustained the objection of the prosecutor to the following questions put to the witness Harris on examination by the defense counsel: "Q And on one night last week did Officer Manning, Motorcycle Officer Manning, come to the jail and give you ten dollars to give to a prisoner named Shlisky, and tell you to give it to Mike Shlisky, that he was helping him on the Reid case?"

45. Because the Trial Court denied the motions of the defendants' counsel for directions of verdicts of acquittals for each of the defendants, Joseph Juliano, alias "Big Joe," Christopher Barone, and Louis Capozzi, alias "Kid Ruff," made at the close of the case.



46. Because the Court erroneously charged the jury in part as follows: "'If reasonable doubt of guilt is raised even by inconclusive evidence of the alibi, defendant is entitled to the benefit of it. In that even a defense, which otherwise would overcome and put at naught the State's evidence, would simply be put out of the case.' "Now this reference or, rather the application applies to all of the defendants in this case, because all have offered proof and testimony of their presence elsewhere at the time when this crime was committed.'"

47. Because the Court erroneously charged the jury in part as follows: "Nicholas Joseph Juliano testified that he did not know Barone, that he knew his cousin Big Joe for some twelve or thirteen years, and he had a slight acquaintance with Capozzi by reason of Capozzi's association with his cousin."

48. Because the Court erroneously charged the jury in part as follows: "At that time Myrtle Foster testified that there was a conversation between Barone and Boudreau—between Barone and Little Joe, and there was some reference made about going to New York and meeting at their hangout,—"

49. Because the Court erroneously charged the jury in part as follows: "It is a proper query at this time—'Did Little Joe know Barone, was he sufficiently acquainted with him, or did he know this girl referred to as Chillie, that would justify this familiarity.'"

50. Because the Court erroneously charged the jury in part as follows: "Capozzi, in support of his defense said—that he left to keep an appointment at twelve o'clock with Barone and Big Joe."

51. Because the Court erroneously charged the jury in part as follows: "Mr. Shelter, of the Packard Company, testified that he was at the St. Francis Hotel that morning. I think he said he left his own home about 8:45 and made a stop for Silverman at Elizabeth avenue, and then proceeded to the St. Francis and waited until Mr. Silverman came out with the signature of Roma, whom he knew Ruff to be, or Capozzi;—"

52. Because the Court erroneously charged the jury in part as follows: "Mr. Shelter further testified that on Sunday Max Silverman was at his home in company with Barone, one of these defendants, and I think Buck Joseph, if I am not mistaken, was also present, and that at that time a duplicate set of papers were given to Silverman for Roma's signature."

53. Because the Court erroneously charged the jury in part as follows: "He testified that he had an appointment with Barone and Big Joe and they met pursuant to that appointment at or near Childs', or at 18 Treat place; that they went to Weber & Heilbroner's and made some purchases, and then later on Big Joe went to the railroad station to meet Miss Dot Miller."

54. Because the Court erroneously charged the jury in part as follows: "—and, then, I think, we had as a witness an ex-police officer, Kelly, who met Big Joe at Chillie Grande's in the neighborhood of twelve o'clock and then rode down-



town with Big Joe to keep his appointment with Capozzi and Barone."

55. Because the Court erroneously charged the jury in part as follows: "Mr. McDonald, the owner of the garage, testified as to the selling of grease, but he did not see Barone, the defendant, at that time—"

56. Because the Court erroneously charged the jury in part as follows: "At that time he saw Big Joe get out of the car with another man, whom he now says is Little Joe. He says the reason why he fixes the time at five minutes to eleven is because he made his pull at a signal box. Yesterday Lieutenant Rowe of Police Headquarters testified that Officer Manning made this pull at eleven o'clock at the box which Officer Manning testified he pulled from."

57. Because the Court erroneously charged the jury in part as follows: "Then, too, you have a right to consider, in measuring the value of testimony, the interest that anyone has in the outcome of this case.

What interest has the wife, the mother-in-law, the father-in-law, the sisters-in-law, the brother of Little Joe Juliano? What interest has Dot Miller and her mother? What interest has Catherine D'Amato, Amore, Policeman Kelly? What interest have Barone's sister-in-law, brother, and cousin?

You may ask yourselves very properly in considering the testimony of the defendants, in the light of the interest they have in this case.

These men are charged with crime. Your verdict is going to determine whether or not they are convicted or acquitted, and you may very

properly considered the interest they have in the outcome of this case. What interest have the police? What interest has Mr. Seigel? Miss Hanley and Miss Gillard and Mr. Oliver?''

58. Because the Court erroneously charged the jury in part as follows: ''You men are vindicators of the law, charged with responsibility. You should be mindful, on the one hand, of your obligation to the prisoners and, on the other hand, what is due to public justice.''

59. Because the Court erroneously charged the jury in part as follows: ''When I read to you the statute in this case, I pointed out that the crime these men are charged with is murder and that the statute makes a murder in the perpetration of a robbery to be murder in the first degree. I charge you that in this case your verdict ought to be, if you believe the defendants or any of them, guilty of murder in the first degree. If you are not satisfied from the proof that the State has made out a case beyond a reasonable doubt as to any or all, your verdict ought to be not guilty. In other words, there should be one of two verdicts, a verdict of murder in the first degree or an acquittal.''

60. Because the Court erroneously failed and refused to charge the first request to charge of the defendants as requested: ''The defendants, and each of them, in this case are presumed to be innocent and the burden of proof is upon the State to prove them guilty of the charge contained in the indictment beyond a reasonable doubt, and if the evidence fails to convince you beyond a reasonable doubt of the guilt of these defendants, it is your duty to acquit.''



61. Because the Court erroneously failed and refused to charge the sixth request to charge of the defendants as requested: ''Certain motions for directions of verdict of acquittal were made to the Court by these defendants which the Court denied, but you must not consider the rulings of the Court as any determination of any of the facts in dispute or even as indications of the Court's opinion as to the facts, the Court having merely ruled that the evidence presents questions of fact for the jury rather than questions of law for the Court.''

62. Because the Court erroneously failed and refused to charge the seventh request to charge of the defendants as requested: ''In considering the question of the guilt of each of these defendants, I charge you that you are not to take into consideration the fact that such defendants have been previously convicted of crime, except so far as this fact may affect their credibility as witnesses in this case, and under no circumstances may you take it into consideration as creating any probability that the defendants, or any of them, were guilty of the crime charged in the indictment, nor should it influence you in any way in passing upon their conduct or actions at the time mentioned in the indictment.''

63. Because the Court erroneously failed and refused to charge the ninth request to charge of the defendants as requested: ''In this case, the presence of these defendants at the scene of the commission of the crime must be proven beyond a reasonable doubt, and if you have a reasonable doubt as to the presence of any of the defendants at such scene of the crime, then such defendants as you have a reasonable doubt in respect to must be acquitted. Even if the jury

should find that any particular defendant has not proven his absence from the scene of the crime, of his alibi, yet if the testimony as to such alibi creates such a degree of uncertainty as to his whereabouts that the jury is not satisfied beyond a reasonable doubt of his guilt of the crime for which he is indicted, he is entitled to an acquittal."

64. Because the Court erroneously failed and refused to charge the tenth request to charge of the defendants as requested: "The jury is instructed that the indictment in this case is of itself a mere accusation or charge against the defendants and creates no presumption whatever of their guilt and is not of itself any evidence of the guilt of the defendants who are presumed to be innocent in spite of the indictment."

65. Because the Court erroneously failed and refused to charge the twelfth request to charge of the defendants as requested: "The Court instructs the jury that the law does not require that the defendants sustain the burden of proving themselves innocent, but the law imposes upon the prosecution the burden of proving that the defendants are guilty in manner and form as charged in the indictment beyond a reasonable doubt."

66. Because the Court erroneously failed and refused to charge the fifteenth request to charge of the defendants as requested: "The jury are further instructed that if, upon a fair and impartial consideration of all the evidence in the case, they find that there are two reasonable theories equally supported by the testimony in the case, and that one of such theories is consistent with the innocence of the defendants,



then it is the policy of the law, and the law makes it the duty of the jury to adopt that theory which is consistent with the innocence of the defendants, and to find the defendants not guilty."

67. Because the Court erroneously failed and refused to charge the sixteenth request to charge of the defendants as requested: "You may take into consideration as affecting the credibility of the witness, Boudreau, the fact that he admitted having previously made statements contrary to his testimony in this trial, and if you believe that the witness Boudreau, by reason of this fact or by reason of the fact that he has previously been convicted of crime, is totally unworthy of belief, then you are entitled to entirely disregard his testimony in this case."

68. Because the Court erroneously failed and refused to charge the seventeenth request to charge of the defendants as requested: "You may take into consideration the fact that some of the witnesses identifying the defendants, or some of them, in their testimony, had previously to their picking them out of a line-up, seen pictures of the defendants in newspapers, and if you find that such previous view of pictures of the defendants caused such witnesses to pick the defendants out at such line-up and to identify them at the trial and that such identification was not the result of a recollection and memory of seeing the defendants at the scene of the hold-up, then you may disregard the evidence of such witnesses as to the identity and guilt of these defendants."

69. Because the Court erroneously failed and refused to charge the eighteenth request to charge of the defendants as requested: "You

may take into consideration as affecting the credibility of the witness, Seigel, the evidence that he previously picked out one Bielke as one of the five persons whom he testified he saw at the scene of the crime committing the same."

70. Because the Court erroneously failed and refused to charge the nineteenth request to charge of the defendants as requested: "The jury may take into consideration as affecting the credibility and accuracy of each witness, the conflicts between the testimony of such witness and the various other witnesses for the State as to the defendants seen or recognized by such witness according to his testimony at the trial."

71. Because the Court erroneouly failed and refused to charge the twenty-first request to charge of the defendants as requested: "The jury should take into consideration the fact that several witnesses testified for the defendants who testified that they were present at the scene and time of the hold-up and who saw some of the perpetrators of the crime and who have testified that the defendants were not the persons seen by them, and if such evidence raises a reasonable doubt of the guilt of the defendants, it is the duty of the jury to acquit."

72. Because the Court erroneonsly failed and refused to charge the twenty-second request to charge of the defendants as requested: "The jury may take into consideration the fact that there is a complete lack of evidence of any previous or subsequent association of these defendants before or after the alleged crime, with the witness, Boudreau, confessed participant in such crime, as affecting the credibility of the witness,



Boudreau, and as entering into the probabilities of the guilt or innocence of these defendants."

73. Because the Court erroneously failed and refused to charge the twenty-third request to charge of the defendants as requested: "The jury may take into consideration as affecting the credibility of the testimony of the witness, Boudreau to the effect that he knew and participated in the crime with these defendants, the evidence that before picking them from a line-up at headquarters before the trial and before giving his evidence in the trial, he obtained a view of them while he was concealed or partly concealed in a telephone booth at police headquarters."

74. Because the Court erroneously failed and refused to charge the twenty-fourth request to charge of the defendants as requested: "If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant, Joseph Juliano, is guilty, he is entitled to an acquittal."

75. Because the Court erroneously failed and refused to charge the twenty-fifth request to charge of the defendants as requested: "If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant, Louis Capozzi is guilty, he is entitled to an acquittal."

76. Because the Court erroneously failed and refused to charge the twenty-sixth request to charge of the defendants as requested: "If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant, Christopher Barone, is guilty, he is entitled to an acquittal."

77. Because the entire charge of the Court stressed the evidence unfavorable to the defendants and omitted or garbed and mis-stated the evidence favorable to the defendants so as to confuse and mislead the jury in its consideration of the case.

78. Because the Court failed to answer specifically and directly the question put by the jury to the Court as to whether a verdict could be given in the first degree with life imprisonment.

79. Because manifest injustice was done to the defendants by the whole charge of the Court.

80. Because the Court failed to charge, and it was impossible for the jury to learn from the charge of the Court what facts if proved to their satisfaction beyond a reasonable doubt would warrant the jury in convicting the defendants.

81. Because the charge of the Trial Court to the jury as to the law and the facts of the case was confusing, inconsistent, incorrect and misleading, and was calculated to produce in the minds of the jurors misapprehension and mistake as to the law and facts of the case.

JOHN W. McGEEHAN, JR.
Attorney for and of Counsel
with Plaintiffs-in-Error.

Service of the within assignment of errors is hereby acknowledged this 25th day of January, 1927.

J. O. BIGELOW.



## SPECIFICATION OF CAUSES.

NEW JERSEY COURT OF ERRORS AND APPEALS.

| | |
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| THE STATE OF NEW JERSEY, *Defendant-in-Error,* | *On Indictment for Murder.* |
| *vs.* | *On Writ of Error to Essex Oyer and Terminer.* |
| JOSEPH JULIANO, alias "Big Joe," CHRISTOPHER BARONE, and LOUIS CAPOZZI, alias "Kid Ruff," *Plaintiffs-in-Error.* | *Specification of Causes.* |

And the said plaintiffs-in-error, Joseph Juliano, alias "Big Joe," Christopher Barone, and Louis Capozzi, alias "Kid Ruff," by John W. McGeehan, Jr., their attorney, hereby specify the causes in the record relied upon for relief or reversal in the aforesaid cause as follows:

1. Because the Trial Court refused to grant the motion of these defendants for a severance of the indictment and for a separate trial from the defendant Nicholas Joseph Juliano, jointly indicted with them.

2. Because the Court refused to grant the motion of the defendants for a postponement of the trial upon the indictment for murder returned against them.

3. Because the Court overruled the challenge of the defendants to the array of the jurors upon the ground that the special panel served upon the defendants was improperly drawn, and

the names thereon improperly selected from a list or box that did not contain the names of all the jurors drawn and summoned to attend as jurors at the term for which the defendants were to be tried.

4. Because the Trial Court sustained the challenge for cause made by the State against Robert G. Hoffman, one of the jurors or talesmen, upon the special and general panel, and dismissed the said Robert G. Hoffman for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

5. Because the Trial Court sustained the challenge for cause made by the State against Fred W. Lyon, one of the jurors or talesmen upon the special and general panel, and dismissed the said Fred W. Lyon for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

6. Because the Trial Court sustained the challenge for cause made by the State against William H. Billings, one of the jurors or talesmen upon the special and general panel, and dismissed the said William H. Billings, for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

7. Because the Trial Court sustained the challenge for cause made by the State against Frank Farley, one of the jurors or talesmen upon the special and general panel, and dismissed the said Frank Farley for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.



8. Because the Trial Court sustained the challenge for cause made by the State against Charles S. Weiss, one of the jurors or talesmen upon the special and general panel, and dismissed the said Charles S. Weiss for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

9. Because the Trial Court sustained the challenge for cause made by the State against Herbert A. Gries, one of the jurors or talesmen upon the special and general panel, and dismissed the said Herbert A. Gries for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

10. Because the Trial Court sustained the challenge for cause made by the State against John F. Moore, one of the jurors or talesmen upon the special and general panel, and dismissed the said John F. Moore for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

11. Because the Trial Court sustained the challenge for cause made by the State against John Christiansen, one of the jurors or talesmen upon the special and general panel, and dis-

missed the said John Christiansen for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

12. Because the Trial Court sustained the challenge for cause made by the State against Edgar C. Desch, one of the jurors or talesmen upon the special and general panel, and dismissed the said Edgar C. Desch for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

13. Because the Trial Court sustained the challenge for cause made by the State against Harry H. Gimbel, one of the jurors or talesmen upon the special and general panel, and dismissed the said Harry H. Gimbel for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

14. Because the Trial Court sustained the challenge for cause made by the State against George R. Jordan, one of the jurors or talesmen upon the special and general panel, and dismissed the said George R. Jordan for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.

15. Because the Trial Court sustained the challenge for cause made by the State against Henry M. Beckman, one of the jurors or talesmen upon the special and general panel, and dismissed the said Henry M. Beckman for cause and without legal cause and without a peremptory challenge on the part of the State and against the objection of the defendants, by whom said juror was accepted as satisfactory.



16. Because the Court overruled the objection of the defendants to the admission of a photograph in evidence, which photograph showed movable objects, to wit, an automobile and a motor truck which were not and which were not proven to have existed and have been in the same positions at the time of the commission of the crime.

17. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel on cross examination to the State witness Boudreau: "Q Who did you go around with about the time this hold-up occurred, who were your friends?"

18. Because the Court sustained the objection of the prosecutor to the following question put to the witness Boudreau on cross examination by defendants' counsel: "Q How long after that was the next one signed?"

19. Because the Court sustained the objection of the prosecutor to the following question put to the witness Boudreau by defendants' counsel on cross examination: "Q Two statements you made before and which you signed differ from each other, and differ from the testimony given by you at this trial?"

20. Because the Court sustained the objection of the prosecutor to the following question put to the witness Boudreau on cross examination by defendants' counsel: "Q The two statements

that you previously signed differed from each other, did they not?''

21. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel to the witness Boudreau on cross examination: ''Q Out with him on various jobs, haven't you?''

22. Because the Court sustained the objection of the prosecutor to the following question put to the witness Boudreau by defendants' counsel on cross examination: ''Q And they committed crimes with you, did they not, did they not?''

23. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel on cross examination to the witness Seigel: ''Q Did you tell the officer that came to your store, the detective, that one of the persons you saw was a young man about 35 years old, five-eleven, and thin-faced and light complexion?''

24. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel on cross examination to the witness Seigel: ''Q Who was that officer; do you know what his name was?''

25. Because the Court sustained the objection of the prosecutor to the following questions put by defendants' counsel on cross examination to the witness Seigel: ''Q Were you shown by the detectives who came to your store a police circular saying four men were sought, and one of them was of light complexion?'' ''Q Were you shown that, and did you say that the description of those four men there was correct?''



26. Because the Court sustained the objection of the prosecutor to the following question put by defendants' counsel on cross examination to the witness Seigel: ''Q Now, I ask you this question: If you were shown pictures of these men you did not identify them as being the men you saw participate in the hold-up, did you?''

27. Because the Court sustained the objections of the prosecutor to the following questions put by defendants' counsel to the witness Seigel on cross examination: ''Q Who do you remember as being shown the pictures?'' ''Q You do know what other persons were shown the pictures?'' ''Q Without telling who the parties were?'' ''Q Do you know who the parties were who were show the pictures at headquarters?''

28. Because the Court sustained the objection of the prosecutor to the following question put to the witness Seigel on cross examination by defendants' counsel: ''Q Do you know that a number of these twenty-five people were detectives without your being able to remember their faces here?''

29. Because the Court sustained the objection of the prosecutor to the following questoin put to the witness Seigel on cross examination by defendants' counsel: ''Q Didn't you tell the detectives who came to your store a couple of days after the hold-up, that there were four men and not five men in the hold-up?'' and to the question: ''Q You know what detective I mean without giving his name?''

30. Because the Court sustained the objection of the prosecutor to the following question put to the witness Seigel on cross examination by

defendants' counsel: "Q Did you tell the police that you saw a tall blond man there?"

31. Because the Court overruled the objections of defendants' counsel to the following questions put to the witness Duff by the prosecutor: "Q Where were these other line-ups?" "Q Where was the other?" "Q Was there any line-up anywhere else that you attended?" "Q Now, at any of these line-ups outside of the line-up of Sunday, October 17th, did you see any man that you saw at the hold-up on July 19th?"

32. Because the Court overruled the objection of the defendants' counsel to the following question put to the witness Kenny by the prosecutor: "Q What case was he present in connection with?" and in overruling the motion of defendants' counsel to strike out the answer thereto: "A He was brought in reference to the Ward case"; and in overruling the motion of defendants' counsel for a mistrial by reason of said question and answer.

33. Because the Trial Court overruled the objections of defendants' counsel to the following question put to the witness Harrington by the prosecutor: "Q Did any of these three men give you anything to keep for him while he was in the baths or they were in the baths?" and "Q What did he give you?" and allowing said witness to testify: "A Revolvers, wrapped in a cloth."

34. Because the Trial Court sustained the objection of the prosecutor to the following questions put by defendants' counsel to the witness Miss Hanley on cross examination: "Q Now,



you have been mistaken in your young lifetime on memory of faces?" and "Q Have you ever tested your ability to remember faces?" and "Q Have you ever in any way trained yourself to remember faces?"

35. Because the Trial Court sustained the objection of the prosecutor to the following question put to the witness Joseph Juliano on cross examination by defendants' counsel: "Q Was Philip Seigel shown the pictures of the defendants, or any of them, right after this hold-up had occurred?"

36. Because the Trial Court sustained the objection of the prosecutor to the following question put to the witness Brex by defendants' counsel on cross examination: "Did you ever show a man by the name of Gildart the pictures of a man in this case, or the defendants, any of them?" and "Q Now, none of the defendants in this case were picked out by photographs by any of the eye witnesses of the hold-up after it occurred, were they?" and "Q The persons that you have said in your direct testimony picked the defendants out in the line-ups, never picked out the photographs of any of the defendants shortly after the Reid hold-up occurred, did they?"

37. Because the Trial Court sustained the objection of the prosecutor to the following question put to the witness Brex by defendants' counsel on cross examination: "Q Did Seigel tell you that he saw and recognized five people right after this hold-up occurred?"

38. Because the Trial Court sustained the objection of the prosecutor to each of the follow-

ing questions put to the witness Brex on cross examination by defendants' counsel: "Q Did you ever know whether Boudreau was a companion of Pete Rogers and DePhillips?" "Q Did you ever find out whether Boudreau went around with any men who had a relative who was paymaster in the Reid company?" "Q Did you ever find out how Boudreau knew Condit?" "Q Do you know whether or not Boudreau hung out around the corner there of the Reid company?" "Q Did you question Boudreau about whether he did or not?"

39. Because the Trial Court sustained the objection of the prosecutor to the proof of a letter to contradict the State's witness Boudreau during the testimony of the witness Miss Sorenson.

40. Because the Trial Court sustained the objection of the prosecutor to the following questions put to the witness Miss Sorenson by defendants' counsel on direct examination: "Q Do you remember being in an automobile with him that stopped in front of a lunch wagon in front of Clay street and Broad street, and that he called a man out of the lunch wagon and said he would be back later—'We got a big job on tonight?'" and "Q Can you tell us what the man looks like that he called out of that lunch wagon the night before he was arrested?"

41. Because the Trial Court overruled the objections of defendants' counsel to the following questions put by the prosecutor on cross examination of the witness Silverman: "Q Didn't you in that conversation tell Mr. Bigelow that you had made sixty or seventy thousand dollars in that business, but that you had—that



you had made sixty or seventy thousand dollars in July and had dropped it all?" "Q You were trying to get Mr. Bigelow to relieve you of some liability on a bail bond at that time, weren't you?" "Q And didn't you have that conversation with him to give him the impression, convey to him the impression that you were broke and to let down on you?"

42. Because the Trial Court overruled the objection of defendants' counsel to the following question put to the witness Kelly by the prosecutor on cross examination: "Q How did you happen to leave the force?" and allowing the witness to answer: "A I got dismissed."

43. Because the Trial Court sustained the objection of the prosecutor to the following questions put to the witness Myrtle Foster by defendants' counsel: "Q Well, why didn't you tell it when I was questioning you when we had Mr. McKenna and Mr. Corrigan there to hear what you were saying, why didn't you tell us then?"

44. Because the Trial Court sustained the objection of the prosecutor to the following question put to the witness Harris on examination by the defense counsel: "Q And on one night last week did Officer Manning, Motorcycle Officer Manning, come to the jail and give you ten dollars to give to a prisoner named Shlisky, and tell you to give it to Mike Shlisky, that he was helping him on the Reid case?"

45. Because the Trial Court denied the motions of the defendants' counsel for directions of verdicts of acquittals for each of the defendants, Joseph Juliano, alias "Big Joe,"

Christopher Barone and Louis Capozzi, alias "Kid Ruff," made at the close of the case.

46. Because the Court erroneously charged the jury in part as follows: "'If reasonable doubt of guilt is raised even by inconclusive evidence of the alibi, defendant is entitled to the benefit of it. In that event a defense, which otherwise would overcome and put at naught the State's evidence, would simply be put out of the case. "Now, this reference or, rather, the application applies to all of the defendants in this case, because all have offered proof and testimony of their presence elsewhere at the time when this crime was committed."

47. Because the Court erroneously charged the jury in part as follows: "Nicholas Joseph Juliano testified that he did not know Barone, that he knew his cousin Big Joe for some twelve or thirteen years, and he had a slight acquaintance with Capozzi by reason of Capozzi's association with his cousin."

48. Because the Court erroneously charged the jury in part as follows: "At that time Myrtle Foster testified that there was a conversation between Barone and Boudreau—between Barone and Little Joe, and there was some reference made about going to New York and meeting at their hangout—"

49. Because the Court erroneously charged the jury in part as follows: "It is a proper query at this time: 'Did Little Joe know Barone, was he sufficiently acquainted with him, or did he know this girl referred to as Chillie, that would justify this familiarity?' "

50. Because the Court erroneously charged the jury in part as follows: "Capozzi, in support of his defense said—that he left to keep an appointment at twelve o'clock with Barone and Big Joe."



51. Because the Court erroneously charged the jury in part as follows: "Mr. Shelter, of the Packard Company, testified that he was at the St. Francis Hotel that morning. I think he said he left his own home about 8:45 and made a stop for Silverman at Elizabeth avenue, and then proceeded to the St. Francis and waited until Mr. Silverman came out with the signature of Roma, whom he knew Ruff to be, or Capozzi—"

52. Because the Court erroneously charged the jury in part as follows: "Mr. Shelter further testified that on Sunday Max Silverman was at his home in company with Barone, one of these defendants, and I think Buck Joseph, if I am not mistaken, was also present, and that at that time a duplicate set of papers were given to Silverman for Roma's signature."

53. Because the Court erroneously charged the jury in part as follows: "He testified that he had an appointment with Barone and Big Joe and they met pursuant to that appointment at or near Childs', or at 18 Treat Place; that they went to Weber & Heilbroner's and made some purchases, and then later on Big Joe went to the railroad station to meet Miss Dot Miller."

54. Because the Court erroneously charged the jury in part as follows: "—and, then, I think, we had as a witness an ex-police officer, Kelly, who met Big Joe at Chillie Grande's in the neighborhood of 12:00 o'clock and then rode downtown with Big Joe to keep his appointment with Capozzi and Barone."

55. Because the Court erroneously charged the jury in part as follows: "Mr. McDonald, the owner of the garage, testified as to the selling of grease, but he did not see Barone, the defendant, at that time—"

56. Because the Court erroneously charged the jury in part as follows: "At that time he saw Big Joe get out of the car with another man, whom he now says is Little Joe. He says the reason why he fixes the time at five minutes to eleven is because he made his pull at a signal box. Yesterday Lieutenant Rowe of Police Headquarters testified that Officer Manning made this pull at 11:00 o'clock at the box which Officer Manning testified he pulled from."

57. Because the Court erroneously charged the jury in part as follows: "Then, too, you have a right to consider, in measuring the value of testimony, the interest that anyone has in the outcome of this case.

What interest has the wife, the mother-in-law, the father-in-law, the sisters-in-law, the brother of Little Joe Juliano? What interest has Dot Miller and her mother? What interest has Catherine D'Amato, Amore, Policeman Kelly? What interest have Barone's sister-in-law, brother and cousin?

You may ask yourselves very properly in considering the testimony of the defendants, in the light of the interest they have in this case.

These men are charged with crime. Your verdict is going to determine whether or not they are convicted or acquitted, and you may very properly consider the interest they have in the outcome of this case. What interest have the



police? What interest has Mr. Seigel? Miss Hanley and Miss Gillard and Mr. Oliver"?

58. Because the Court erroneously charged the jury in part as follows: "You men are vindicators of the law, charged with responsibility. You should be mindful, on the one hand, of your obligation to the prisoners and, on the other hand, what is due to public justice."

59. Because the Court erroneously charged the jury in part as follows: "When I read to you the statute in this case, I pointed out that the crime these men are charged with is murder and that the statute makes a murder in the perpetration of a robbery to be murder in the first degree. I charge you that in this case your verdict ought to be, if you believe the defendants or any of them, guilty of murder in the first degree. If you are not satisfied from the proof that the State has made out a case beyond a reasonable doubt as to any or all, your verdict ought to be not guilty. In other words, there should be one of two verdicts, a verdict of murder in the first degree or an acquittal."

60. Because the Court erroneously failed and refused to charge the First request to charge of the defendants as requested: "The defendants, and each of them, in this case are presumed to be innocent and the burden of proof is upon the State to prove them guilty of the charge contained in the indictment beyond a reasonable doubt, and if the evidence fails to convince you beyond a reasonable doubt of the guilt of these defendants, it is your duty to acquit."

61. Because the Court erroneously failed and refused to charge the Sixth request to charge of the defendants as requested: "Certain motions

for directions of verdict of acquittal were made to the Court by these defendants which the Court denied, but you must not consider the rulings of the Court as any determination of any of the facts in dispute or even as indications of the Court's opinion as to the facts, the Court having merely ruled that the evidence presents questions of fact for the jury rather than questions of law for the Court."

62. Because the Court erroneously failed and refused to charge the Seventh request to charge of the defendants as requested: "In considering the question of the guilt of each of these defendants, I charge you that you are not to take into consideration the fact that such defendants have been previously convicted of crime, except so far as this fact may affect their credibility as witnesses in this case, and under no circumstances may you take it into consideration as creating any probability that the defendants, or any of them, were guilty of the crime charged in the indictment, nor should it influence you in any way in passing upon their conduct or actions at the time mentioned in the indictment."

63. Because the Court erroneously failed and refused to charge the Ninth request to charge of the defendants as requested: "In this case, the presence of these defendants at the scene of the commission of the crime must be proven beyond a reasonable doubt, and if you have a reasonable doubt as to the presence of any of the defendants at such scene of the crime, then such defendants as you have a reasonable doubt in respect to must be acquitted. Even if the jury should find that any particular defendant has not proven his absence from the scene of the crime, of his alibi, yet if the testimony as to



such alibi creates such a degree of uncertainty as to his whereabouts that the jury is not satisfied beyond a reasonable doubt of his guilt of the crime for which he is indicted, he is entitled to an acquittal."

64. Because the Court erroneously failed and refused to charge the Tenth request to charge of the defendants as requested: "The jury is instructed that the indictment in this case is of itself a mere accusation or charge against the defendants and creates no presumption whatever of their guilt and is not of itself any evidence of the guilt of the defendants who are presumed to be innocent in spite of the indictment."

65. Because the Court erroneously failed and refused to charge the Twelfth request to charge of the defendants as requested: "The Court instructs the jury that the law does not require that the defendants sustain the burden of proving themselves innocent, but the law imposes upon the prosecution the burden of proving that the defendants are guilty in manner and form as charged in the indictment beyond a reasonable doubt."

66. Because the Court erroneously failed and refused to charge the Fifteenth request to charge of the defendants as requested: "The jury are further instructed that if, upon a fair and impartial consideration of all the evidence in the case, they find that there are two reasonable theories equally supported by the testimony in the case, and that one of such theories is consistent with the innocence of the defendants, then it is the policy of the law, and the law makes it the duty of the jury to adopt that theory which is consistent with the innocence of the defendants, and to find the defendants not guilty."

67. Because the Court erroneously failed and refused to charge the Sixteenth request to charge of the defendants as requested: "You may take into consideration as affecting the credibility of the witness Boudreau, the fact that he admitted having previously made statements contrary to his testimony in this trial, and if you believe that the witness Boudreau, by reason of this fact or by reason of the fact that he has previously been convicted of crime, is totally unworthy of belief, then you are entitled to entirely disregard his testimony in this case."

68. Because the Court erroneously failed and refused to charge the Seventeenth request to charge of the defendants as requested: "You may take into consideration the fact that some of the witnesses identifying the defendants, or some of them, in their testimony, had previously to their picking them out of a line-up, seen pictures of the defendants in newspapers, and if you find that such previous view of pictures of the defendants caused such witnesses to pick the defendants out at such line-up and to identify them at the trial and that such identification was not the result of a recollection and memory of seeing the defendants at the scene of the hold-up, then you may disregard the evidence of such witnesses as to the identity and guilt of these defendants."

69. Because the Court erroneously failed and refused to charge the Eighteenth request to charge of the defendants as requested: "You may take into consideration as affecting the credibility of the witness Seigel, the evidence that he prevoiusly picked out one Bielke as one of the five persons whom he testified he saw at the secene of the crime committing the same."



70. Because the Court erroneously failed and refused to charge the Nineteenth request to charge of the defendants as requested: "The jury may take into consideration as affecting the credibility and accuracy of each witness, the conflicts between the testimony of such witness and the various other witnesses for the State as to the defendants seen or recognized by such witness according to his testimony at the trial."

71. Because the Court erroneously failed and refused to charge the Twenty-first request to charge of the defendants as requested: "The jury should take into consideration the fact that several witnesses testified for the defendants who testified that they were present at the scene and time of the hold-up and who saw some of the perpetrators of the crime and who have testified that the defendants were not the persons seen by them, and if such evidence raises a reasonable doubt of the guilt of the defendants, it is the duty of the jury to acquit."

72. Because the Court erroneously failed and refused to charge the Twenty-second request to charge of the defendants as requested: "The jury may take into consideration the fact that there is a complete lack of evidence of any previous or subsequent association of these defendants before or after the alleged crime, with the witness Boudreau, confessed participant in such crime, as affecting the credibility of the witness Boudreau and as entering into the probabilities of the guilt or innocence of these defendants."

73. Because the Court erroneously failed and refused to charge the Twenty-third request to charge of the defendants as requested: "The jury may take into consideration as affecting the

credibility of the testimony of the witness Boudreau to the effect that he knew and participated in the crime with these defendants, the evidence that before picking them from a line-up at headquarters before the trial and before giving his evidence in the trial, he obtained a view of them while he was concealed or partly concealed in a telephone booth at police headquarters."

74. Because the Court erroneously failed and refused to charge the Twenty-fourth request to charge of the defendants as requested: "If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant Joseph Juliano is guilty, he is entitled to an acquittal."

75. Because the Court erroneously failed and refused to charge the Twenty-fifth request to charge of the defendants as requested: "If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant Louis Capozzi is guilty, he is entitled to an acquittal."

76. Because the Court erroneously failed and refused to charge the Twenty-sixth request to charge of the defendants as requested: "If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant Christopher Barone is guilty, he is entitled to an acquittal."

77. Because the entire charge of the Court stressed the evidence unfavorable to the defendants and omitted or garbled and mis-stated the evidence favorable to the defendants so as to confuse and mislead the jury in its consideration of the case.



78. Because the Court failed to answer specifically and directly the question put by the jury to the Court as to whether a verdict could be given in the first degree with life imprisonment.

79. Because manifest injustice was done to the defendants by the whole charge of the Court.

80. Because the Court failed to charge and it was impossible for the jury to learn from the charge of the Court what facts if proved to their satisfaction beyond a reasonable doubt would warrant the jury in convicting the defendants.

81. Because the charge of the Trial Court to the jury as to the law and the facts of the case was confusing, inconsistent, incorrect and misleading, and was calculated to produce in the minds of the jurors misapprehension and mistake as to the law and facts of the case.

82. Because the verdict as to each of the defendants was against the weight of the evidence, this cause being assigned under and pursuant to the statute in such case made and provided, being Chapter 349 of the Laws of 1921.

JOHN W. McGEEHAN, JR.,
Attorney for and of Counsel with
Plaintiffs-in-Error.

Service of the within Specification of Causes is hereby acknowledged this 25th day of January, 1927.

J. O. BIGELOW.

## ASSIGNMENTS OF ERROR.

NEW JERSEY COURT OF ERRORS AND APPEALS.

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| STATE OF NEW JERSEY, *Defendant-in-Error,* *vs.* CHRISTOPHER BARONE, JOSEPH JULIANO alias BIG JOE, LOUIS CAPOZZI, NICK JOSEPH JULIANO, alias LITTLE JOE, *Plaintiffs-in-Error.* | *On Indictment for Murder.* *On Error to Essex Oyer and Terminer.* *On Error.* *Assignments of Error.* |

The plaintiff-in-error, Nicholas Joseph Juliano, prays the reversal of the judgment of the court below, and assigns error on the record therein as follows:

1. There is manifest error in this, the Trial Court over the objection of defendants refused to grant defendants a postponement of the trial for a reasonable length of time in order to give the defendants a reasonable opportunity to adequately, properly and completely prepare their defense, it being shown to the Trial Court by defendants that only a little over three weeks had intervened between their arrest and indictment, which was an insufficient and inadequate length of time to adequately, properly and completely prepare their defense on an indictment for murder. This refusal was an abuse of discretion on the part of the Trial Court.



2. There is manifest error in this, the Trial Court, over the objection of defendants, refused to allow the challenge of the defendants to the array of the jurors drawn for the trial of the indictment and refused to quash the said array on the ground that said special panel of jurors served upon the defendants was not legally drawn from the panel of jurors that "May have been drawn and summoned to attend as jurors at the term for which such defendants are to be tried, but instead was drawn from a box containing only the names of a portion of this general panel."

3. There is manifest error in this, the Trial Court, over the objection of defendants, refused to quash the indictment filed against said defendants for the reason alleged by defendants that the bill of particulars heretofore served upon them by the State did not in anywise apprise said defendants, or either of them, whether he or they were charged as accessories of principals in said indictment, which allegation the State did not specify in its said bill of particulars, and which defendants under the law were entitled to know and to be apprised of in the indictment, and before the trial of said case.

4. There is manifest error in this, the Trial Court on the examination of his *voir dire,* of the talesman, Robert G. Hoffman, refused, over the objection of the defendants, to permit the said talesman to answer the following question propounded by the defendants:

> Mr. McGeehan: In this case, would proof of the fact the defendants, or some of them, had previously been convicted of crime, in any way affect your judgment as a juror, so that you would not find them not guilty even

if the evidence did not show them to be guilty.

Mr. Bigelow: I object.

The Court: Sustained. Exception.

5. There is manifest error in this, the Trial Court on the examination on his *voir dire,* of the talesman Fred. W. Lyon, in the hearing and presence of the other talesmen, made the following statement, which was clearly illegal and prejudicial to the legal rights of defendants:

The Court: You put your own convictions above the law and facts in the case, if the law warranted it.

Mr. McGeehan: I object, your Honor.

The Court: I am perfectly cognizant of what I am saying, and you may have an exception. Exception.

6. There is manifest error in this, the Trial Court on the examination on his *voir dire,* of the talesman Fred. W. Lyon, erroneously and illegally sustained the challenge for cause interposed by the State against the talesman Fred. W. Lyon and over the objection of defendants refused to permit him to serve as a juror, the said talesman having been satisfactory to the defendants and the said talesman proving by his testimony on his examination on his *voir dire* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

7. There is manifest error in this, the Trial Court on the examination on his *voir dire,* of the talesman William H. Billings, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman William H. Billings and, over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.



8. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Frank Farley, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Frank Farley and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

9. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Charles S. Weiss, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Charles S. Weiss and over the objection of defendants, excused him from his right to serve as a juror in the case, he having

been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

10. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Herbert A. Gries, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Herbert A. Gries, and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

11. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman John F. Moore, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman John F. Moore and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from



bias, prejudice or partiality as far as both the State and defendants were concerned.

12. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman John Christiansen, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman John Christiansen and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

13. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Edgar C. Desch, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Edgar C. Desch and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

14. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Harry H. Gimbel, over the objec-

tion of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Harry H. Gimbel and over the objection of defendants excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

15. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman George R. Jordan, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman George R. Jordan and over the objection of defendants excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

16. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Henry M. Beckman, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Henry M. Beckman and over the objection of defendants excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony



on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

17. There is manifest error in this, the Trial Court, over the objection of defendants, refused to permit more adequate and comprehensive further cross examination of the expert surveyor and witness for the State, John J. Bracken, regarding the location of the buildings, etc., of the Reid Ice Cream Co., in front of which the alleged crime is alleged to have taken place.

18. There is manifest error in this, the Trial Court, over the objection of defendants, permitted the State to offer in evidence a certain photograph which was alleged to portray the situs, etc., of the alleged crime and which said photograph was taken subsequently to the date of the alleged crime. Said photograph contained and pictured certain objects, movable and otherwise, which were not proven to have existed in the same manner and place as at the time of the alleged offense, and which photograph contained matters and things not evidential against the said defendants. The admission of the said photograph being highly prejudicial to the legal rights of the said defendants.

19. There is manifest error in this, the Trial Court refused to permit the witness Robert Boudreau for the State to answer the following question asked by the defendants:

> Q Who did you go around with about the time this hold-up occurred, who were your friends?

And further refused to permit further cross examination of the witness Robert Boudreau for the State in respect to ascertaining from him who were the people whom he associated with about the time of the alleged crime.

20. There is manifest error in this, the Trial Court refused to permit the witness for the State, Robert Boudreau, to answer the following question asked by the defendants regarding certain statements made by the said Boudreau to the police of the Newark Police Department:

Q How long after that was the next one signed?

And the Court further refused to permit the defendants to further cross examine the said witness Robert Boudreau for the State to test his credibility regarding certain contradictory statements that he is alleged to have made, which refusal was highly prejudicial to the legal rights of defendants.

21. There is manifest error in this, the Trial Court refused to permit the wtiness Robert Boudreau for the State to answer the following question asked by defendants:

Q Two statements you made before and which you signed differ from each other and differ from the testimony given by you at this trial?

22. There is manifest error in this, the Trial Court refused to permit the witness Robert Boudreau for the State to answer the following question asked by defendants:

Q And they committed crimes with you did they not?

23. There is manifest error in this, the Trial Court refused to permit the witness Robert



Boudreau for the State to answer the following question asked by defendants:

Q Do you swear that you never came back from Scotch Plains on that night?

24. There is manifest error in this, the Trial Court refused to permit the defendants to further cross examine the said witness Robert Boudreau for the State for the purpose of laying a foundation for the testing of his credibility regarding certain conversations that he had with different people regarding other robberies that he was alleged to have participated in prior to the date of the alleged crime in question.

25. There is manifest error in this, the Trial Court refused to permit the witness Robert Boudreau for the State to answer the following question asked by the defendants:

Q Why did you testify this morning, under cross examination by Mr. McGeehan, that you were in company with Little Joe Juliano at the Firestone Athletic Club in Newark in April of this year?

And also because the Trial Court limited further cross examination of the witness Boudreau to an examination only upon the evidence given by him on his direct examination on the part of the State and excluded defendants from further cross examination on the cross examination of other counsel which was highly prejudicial to the legal rights of defendants and constitutes reversible error.

26. There is manifest error in this, the Trial Court refused to permit the witness Robert Boudreau for the State to answer the following question asked by the defendants:

Q Do you desire to take advantage of the opportunity to retract that testimony?

27. There is manifest error in this, the Trial Court refused to permit the witness Philip Seigel for the State to answer the following question asked by defendants:

Q Did you tell the officer who came to your store, the detective, that one of the persons that you saw was a young man about thirty-five years old, 5-11 and thin face and light complexion?

28. There is manifest error in this, the Trial Court refused to permit the witness Philip Seigel for the State to answer the following question asked by the defendants:

Q Didn't you tell the detective who came to your store a couple of days after the hold-up that there were four men and not five men in the hold-up?

29. There is manifest error in this, the Trial Court refused to permit the witness Philip Seigel for the State to answer the following question asked by the defendants:

Q Who was that officer, do you know what his name was?

30. There is manifest error in this, the Trial Court refused to permit the witness Philip Seigel for the State to answer the following question asked him by the defendants:

Q Did Captain Brex express amazement at the speed with which you picked them out?

31. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Joseph P. Duff for the State to testify as follows:

Q Now, at any of these line-ups, outside of the line-up on Sunday, October 17th, did



you see any man whom you saw at the hold-up on July 19th? A No, I didn't.

32. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Raymond C. McKenna for the State to testify as follows:

Q What did you hear, or what happened that attracted your attention? A Why, I heard one of the girls in the office say—

Q You heard one of the girls say something? A Yes.

33. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Joseph Kenny for the State to answer the following question asked on his re-direct examination by the State:

Q And was that boy present at headquarters at the time these defendants were in the line-up in connection with the Reid's case.

34. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Joseph Kenny for the State to answer the following question asked on his re-direct examination by the State:

Q What case was he present in connection with?

35. There is manifest error in this, the Trial Court refused to expunge from the record the answer of the witness Joseph Kenny to the foregoing question:

A He was brought in reference to the Ward case.

36. There is manifest error in this, the Trial Court on application of defendants, refused to

grant a mistrial of the case in favor of the defendants on the ground that the foregoing testimony of the witness Joseph Kenny for the State created a disastrous and prejudicial affect on the minds of the jury, having called for by implication an answer that suggested an accusation or a suspicion of some charge against these defendants which had not been made against them, or any of them, by any Court or had not been the subject of any charge, accusation or indictment against them or any of them.

37. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you express amazement at the rapidity with which he put his hand on the five men?

38. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q And you expressed amazement, didn't you, then?

39. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Do you know whether Boudreau hung out at the Firestone A. C.?

40. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you know whether he hung out with those men at the Firestone A. C.?



41. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you ever question these men with regard to this case at all?

42. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you question Boudreau with reference to Pete Rogers and DePhillips?

43. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you ever question any other witnesses to the Reid hold-up with regard to any companions of Boudreau?

44. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you ever find out who the companions of Boudreau were after he was arrested?

45. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Do you know whether or not Boudreau hung out around the corner there of the Reid Company?

46. There is manifest error in this, the Trial Court refused to permit the witness Captain

Brex for the State to answer the following question asked him by the defendants:

Q Did you question Boudreau about whether he did or not?

47. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q Did he ever invite you to go with him to Long Island on any stick-up? Exception.

43. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q Did he say anything to you about your cousin Big Joe Juliano, Christopher Barone and Louis Capozzi? Exception.

49. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q Did he make any promises to you that afternoon that if you corroborated Boudreau that Christopher Barone and Big Joe Juliano and Capozzi were there that he would get you off? Exception.

50. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q Now, Mr. Juliano, did he say anything else to you, did Captain Brex say anything else to you that afternoon? Exception.

51. There is manifest error in this, the Trial Court refused to permit the witness Nicholas



Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q On the second occasion were you questioned by Captain Brex? A Yes.

Q What did he say to you? Exception.

52. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Nicholas Joseph Juliano to testify as follows:

Q Weren't you receiving your earnings?

Mr. Kavanagh: I object on the ground it is not proper cross examination, immaterial and incompetent.

The Court: I will allow it. Exception.

Q Didn't you have words with Boudreau because Boudreau objected to your beating up this girl when she did not bring in enough money? A I never beat her up.

Mr. Kavanagh: I object.

The Court: There was something in the direct testimony to that.

Mr. Bigelow: This defendant testified he had no words with Boudreau except on another, on the occasion to which I refer and I want to test him on that point.

Mr. Kavanagh: Well, he testified he had an argument and he used the words, he had words with him. I object. It is not competent, relevant or material.

The Court: I will allow that.

53. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness John King for the defendants on

cross examination by the State to testify as follows:

Q Wasn't she confined in an institution at one time? A Not that I know of.

54. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness John King for the defendants on cross examination by the State to testify as follows:

Q You mean that she may have been and you not know it?

55. There is manifest error in this, the Trial Court refused to permit the witness Jennette Sorenson for the defendants to answer the following question asked by the defendants:

Q Did you receive a number of letters from him?

56. There is manifest error in this, the Trial Court refused to permit the witness Jennette Sorenson for the defendants to answer the following question asked by the defendants:

Q Do you remember being in an automobile with him that stopped in front of a lunch wagon in front of Clay street and Broad street and that he called a man out of the lunch wagon and said he would be back later "We got a big job on tonight."

57. There is manifest error in this, the Trial Court refused to permit the witness Jennette Sorenson for the defendants to answer the following question asked by the defendants:

Q Can you tell us what the man looks like that he called out of that lunch wagon the night before he was arrested?



58. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "'If reasonable doubt of guilt is raised even by inclusive evidence of the alibi, defendants are entitled to the benefit of it. In that event a defense, which otherwise would overcome and put at nought the Stae's evidence, would simply be put out of the case.' "Now this reference or, rather the application applies to all of the defendants in this case, because all have offered proof and testimony of their presence elsewhere at the time when this crime was committed."

59. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "Nicholas Joseph Juliano testified that he did not know Barone, that he knew his cousin Big Joe for some twelve or thirteen years, and he had a slight acquaintance with Capozzi by reason of Capozzi's association with his cousin."

60. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "At that time Myrtle Foster testified that there was a conversation between Barone and Boudreau—between Barone and Little Joe, and there was some reference made about going to New York and meeting at their hangout—"

61. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "It is a proper query at this time—'Did Little Joe know Barone, was he sufficiently acquainted with him, or did he know this girl referred to as Chillie, that would justify this familiarity?' "

62. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "Capozzi, in support of his defense said—that he left to keep an appointment at twelve o'clock with Barone and Big Joe."

63. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "Mr. Shelter, of the Packard Company, testified that he was at the St. Francis Hotel that morning. I think he said he left his own home 8:45 and made a stop for Silverman at Elizabeth avenue, and then proceeded to the St. Francis and waited until Mr. Silverman came out with the signature of Roma, whom he knew Ruff t be, or Capozzi—"

64. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "Mr. Shelter further testified that on Sunday Max Silverman was at his home in company with Barone, one of these defendants, and I think Buck Josephs, if I am not mistaken, was also present, and at that time a duplicate set of papers were given to Silverman for Roma's signature."

65. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "He testified that he had an appointment with Barone and Big Joe and they met pursuant to that appointment at or near Childs', or at 18 Treat Place; that they went to Weber & Heilbroner's and made some purchases, and then later on Big Joe went to the railroad station to meet Miss Dot Miller."

66. There is manifest error in this, because the Trial Court erroneously charged the jury in



part as follows: "—And, then, I think, we had as a witness an ex-police officer, Kelly, who met Big Joe at Chillie Grande's in the neighborhood of twelve o'clock and then rode downtown with Big Joe to keep his appointment with Capozzi and Barone."

67. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "Mr. McDonald, the owner of the garage, testified as to the selling of grease, but he did not see Barone, the defendant, at that time—"

68. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "At that time he saw Big Joe get out of the car with another man, whom he now says is Little Joe. He says the reason why he fixes the time at five minutes to eleven is because he made his pull at a signal box. Yesterday Lieut. Rowe of Police Headquarters testified that Officer Manning made this pull at eleven o'clock at the box which Officer Manning testified he pulled from."

69. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "Then, too, you have a right to consider in measuring the value of testimony, the interest that anyone has in the outcome of this case.

What interest has the wife, the mother-in-law, the father-in-law, the sisters-in-law, the brother of Little Joe Juliano? What interest has Dot. Miller and her mother? What interest has Katherine D'Amato, Amore, Policeman Kelly? What interest has Barone's sister-in-law, brother and cousin?

You may ask yourselves very properly in considering the testimony of the defendants in the light of the interest they have in this case.

These men are charged with crime. Your verdict is going to determine whether or not they are convicted or acquitted, and you may very properly consider the interest they have in the outcome of this case. What interest have the police? What interest has Mr. Seigel? Miss Hanley and Miss Gillard and Mr. Oliver?''

70. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''You men are vindicators of the law, charged with responsibility. You should be mindful, on the one hand, of your obligation to the prisoners and, on the other hand, what is due to public justice.''

71. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''When I read to you the statute in this case, I pointed out that the crime these men are charged with is murder and that the statute makes a murder in the perpetration of a robbery to be murder in the first degree. I charge you that in this case your verdict ought to be, if you believe the defendants or any of them, guilty of murder in the first degree. If you are not satisfied from the proof that the State has made out a case beyond a reasonable doubt as to any or all, your verdict ought to be not guilty. In other words, there should be one of two verdicts, a verdict of murder in the the first degree or an acquittal.''

72. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the first request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: ''These defendants are presumed to be innocent and the burden of proof is upon the State to prove them guilty of the charge contained in the indictment beyond a reasonable doubt, and if the evidence fails to convince you beyond a reasonable doubt of the guilt of these defendants, it is your duty to acquit.



73. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the second request to charge of the defendant Nicholas Joseph Juliano although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: ''In order for the jury to reach a verdict either of guilty or of not guilty, each and every juror must agree to such verdict, as the verdict must be unanimous and not by a mere majority of the jurors. It is the duty of each juror to vote to acquit if such juror is not convinced beyond a reasonable doubt of the defendant's guilt.''

74. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the third request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: ''In determining the guilt or innocence of this defendant, you may take into consideration not only the evidence in the case, but also the lack of such evidence as you deem to be essential in

determining beyond a reasonable doubt the defendant's guilt or innocence."

75. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the fourth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "The defense in this case of the defendant Nicholas Joseph Juliano is that of complete innocence of the commission of the crime charged in the indictment and in conjunction with and in support thereof, this defendant has testified that he was not at the place where the alleged crime was committed, when it was committed, and this feature of the evidence is termed in law an alibi, and if a reasonable doubt of guilt is raised, even by inconclusive evidence of an alibi, this defendant is entitled to the benefit of that doubt and to an acquittal."

76. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the fifth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "Certain motions for directions of verdict of acquittal were made to the Court by this defendant, which the Court denied, but you must not consider the rulings of the Court as in determination of any of the facts in dispute or even as indications of the Court's opinion as to the facts, the Court having merely ruled that the evidence presents questions of fact for the jury rather than questions of law for the Court."



77. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the sixth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "In considering the question of the guilt of this defendant, I charge you that you are not to take into consideration the fact that such defendant has been previously convicted of crime except as far as this fact may affect his credibility as a witness in this case, and under no circumstances may you take it into consideration as creating any probability that this defendant was guilty of the crime charged in the indictment, nor should it influence you in any way in passing upon his conduct or actions at the time mentioned in the indictment."

78. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the seventh request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "In this case the presence of this defendant at the scene of the commission of the crime must be proven beyond a reasonable doubt, and if you have a reasonable doubt as to the presence of this defendant at such scene of the crime then he must be acquitted. Even if the jury should find that this defendant has not proven his absence from the scene of the crime, or his alibi, yet if the testimony as to such alibi creates such a degree of uncertainty as to his whereabouts that the jury is not satisfied beyond a reasonable

doubt of his guilt of the crime for which he is indicted, he is entitled to an acquittal."

79. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the eighth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge on hour before the Trial Court charged the jury, which request was as follows: "The jury is instructed that the indictment in this case is of itself a mere accusation or charge against this defendant and creates no presumption whatever of his guilt and is not of itself in evidence of the guilt of this defendant who is presumed to be innocent in spite of the indictment."

80. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the ninth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charged one hour before the Trial Court charged the jury, which request was as follows: "The circumstances of this case are such that Boudreau's testimony is the testimony of an alleged accomplice and the jury has the right to exercise care and caution in convicting upon the testimony of such alleged accomplice, and the jury has the right and it is its duty to scrutinize with great care the motives which may have actuated Boudreau and his general credibility before accepting his testimony as true."

81. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the tenth request to charge of the defendant Nicholas Joseph Juliano, although said



request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "The Court instructs the jury that the law does not require that this defendant sustain the burden of proving himself innocent, but the law imposes upon the prosecution the burden of proving that this defendant is guilty in manner and form as charged in the indictment beyond a reasonable doubt."

82. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the eleventh request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "In the investigation of all matters of fact and in the weighing of the evidence, the jury has not the right to assume the guilt of this defendant and then try to reconcile the testimony with a theory, but it is the sworn duty of the jury to presume the innocence of this defendant and to give him the benefit of such presumption all through the trial and at every stage of the investigation of the evidence in the jury room until it is overcome, if it should be overcome by proof beyond a reasonable doubt, and the evidence in order to establish the guilt of this defendant must not only be consistent with the theory of guilt, but must be inconsistent with and exclude every reasonable theory of innocence, and as long as the jury are able to reconcile the evidence with any reasonable theory of the innocence of this defendant, the law makes it their duty so to do; and if, upon a full consideration of all the facts in the case, the jury

entertain a reasonable doubt as to whether this defendant is guilty of the crime charged against him in the indictment, then you should find him 'not guilty.' ''

83. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the twelfth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: ''The jury are further instructed that if, upon a fair and impartial consideration of all the evidence in the case, they find that there are two reasonable theories equally supported by the testimony in the case, and that one of such theories is consistent with the innocence of this defendant, then it is the policy of the law and the law makes it the duty of the jury to adopt that theory which is consistent with the innocence of this defendant and to find him 'not guilty.' ''

84. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the thirteenth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: ''You may take into consideration as affecting the credibility of the witness Boudreau, the fact that he admitted having previously made statements contrary to his testimony in this trial, and if you believe that the witness Boudreau, by reason of this fact or by reason of the fact that he has previously been convicted of crime is totally unworthy of belief, then you are entitled to entirely disregard his testimony in this case.''



85. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the fourteenth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: ''You may take into consideration as affecting the credibility of the witness Seigel, the evidence that he previously picked out one Bielke as one of the five persons whom he testified he saw at the scene of the crime committing the same.''

86. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the fifteenth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: ''The jury may take into consideration as affecting the credibility and accuracy of each witness, the conflicts between the testimony of such witness and the various other witnesses for the State as to the defendant being seen or recognized by such witness according to his testimony at the trial.''

87. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the sixteenth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: ''You may take into consideration in determining the credibility to be given to the testimony of any witness, the probabilities and reasonableness of the truth of all his statements in evidence, and

if you find that the testimony of any witness is improbable in any essential part and is not believed by the jury, the jury has the right to reject the remainder of such witness' testimony as it believes him unworthy of belief."

88. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the seventeenth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "The jury should take into consideration the fact that several witnesses testified for this defendant, who testified that they were present at the scene and time of the hold-up and who saw some of the perpetrators of the crime, and who have testified that this defendant was not the person seen by them, and if such evidence raises a reasonable doubt of the guilt of this defendant, it is the duty of the jury to acquit."

89. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the eighteenth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "The jury may take into consideration as affecting the credibility of the testimony of the witness Boudreau to the effect that he knew and participated in the crime with this defendant, the evidence that before picking him from the line-up at headquarters before the trial and before giving his evidence in the trial, he obtained a view of him while he was concealed or partly concealed in the telephone booth at Police Headquarters."



90. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the nineteenth request to charge of the defendant Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge one hour before the Trial Court charged the jury, which request was as follows: "If the jury shall find that the State has not sustained the burden of proving beyond a reasonable doubt that the defendant Nicholas Joseph Juliano is guilty, he is entitled to an acquittal."

91. Because manifest injustice was done to the defendants by the whole charge of the Court.

92. That it was impossible for the jury to learn from the charge of the Trial Court what facts, if proved to their satisfaction beyond a reasonable doubt, would warrant the jury in convicting the defendant.

93. The defendants assign as error and specify as causes for reversal under the provisions of Chapter 349 of the Laws of 1921 that the verdict was against the weight of the evidence.

94. The defendants further assign as error that there was no creditable testimony to support the verdict.

95. Because in other respects the verdict and judgment were erroneous.

Plaintiffs-in-error pray that the judgment of their conviction may be reversed for the aforesaid reasons.

WILLIAM A. KAVANAGH,
Attorney for and of Counsel with
Plaintiff-in-Error Nicholas Joseph Juliano.

Service of the within is hereby acknowledged this 25th day of January, 1927.

J. O. BIGELOW.

## SPECIFICATION OF CAUSES FOR REVERSAL.

NEW JERSEY COURT OF ERRORS AND APPEALS.

| | |
|---|---|
| STATE OF NEW JERSEY,<br>*Defendant-in-Error,*<br>*vs.*<br>CHRISTOPHER BARONE, JOSEPH JULIANO alias BIG JOE, LOUIS CAPOZZI, NICK JOSEPH JULIANO alias LITTLE JOE,<br>*Plaintiffs-in-Error.* | *On Indictment for Murder.*<br>*On Error to Essex Oyer and Terminer.*<br>*On Error.*<br>*Specification of Causes for Reversal.* |

The plaintiff-in-error complains that he has suffered manifest wrong and injury in the admission and rejection of testimony, in the charge of the Court, and in the denial of matters by the Court, and specifies as causes for reversal of the judgment herein the following:

1. There is manifest error in this, the Trial Court, over the objection of defendants, refused to grant defendants a postponement of the trial for a reasonable length of time in order to give the defendants a reasonable opportunity to adequately, properly and completely prepare their defense, it being shown to the Trial Court by defendants that only a little over three weeks had intervened between their arrest and indictment, which was an insufficient and inadequate length of time to adequately, properly and completely prepare their defense on an indictment for murder. This refusal was an abuse of discretion on the part of the Trial Court.



2. There is manifest error in this, the Trial Court, over the objection of defendants, refused to allow the challenge of the defendants to the array of the jurors drawn for the trial of the indictment and refused to quash the said array on the ground that said special panel of jurors servied upon the defendants was not legally drawn from the panel of jurors that "May have been drawn and summoned to attend as jurors at the term for which such defendants are to be tried, but instead was drawn from a box containing only the names of a portion of this general panel."

3. There is manifest error in this, the Trial Court, over the objection of defendants, refused to quash the indictment filed against said defendants for the reason alleged by defendants that the bill of particulars heretofore served upon them by the State did not in anywise apprise said defendants, or either of them, whether he or they were charged as accessories or principals in said indictment, which allegation the State did not specify in its said bill of particullars, and which defendants under the law were entitled to know and to be apprised of in the indictment, and before the trial of said case.

4. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Robert G. Hoffman, refused, over the objection of the defendants, to permit the said talesman to answer the following question propounded by the defendants:

Mr. McGeehan: In this case, would proof of the fact the defendants, or some of them,

had previously been convicted of crime, in any way affect your judgment as a juror, so that you would not find them not guilty, even if the evidence did not show them to be guilty?

Mr. Bigelow: I object.

The Court: Sustained. Execption.

5. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Fred. W. Lyon, in the hearing and presence of the other talesmen, made the following statement, which was clearly illegal and prejudicial to the legal rights of defendants:

The Court: You put your own convictions above the law and facts in the case, if the law warranted it?

Mr. McGeehan: I object, your Honor.

The Court: I am perfectly cognizant of what I am saying, and you may have an exception.

Exception.

6. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Fred. W. Lyon, erroneously and illegally sustained the challenge for cause interposed by the State against the talesman Fred. W. Lyon and over the objection of defendants refused to permit him to serve as a juror, the said talesman having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.



7. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman William H. Billings, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman William H. Billings and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality, as far as both the State and defendants were concerned.

8. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Frank Farley, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Frank Farley and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

9. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Charles S. Weiss, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Charles S. Weiss and over the ob-

jection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

10. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Herbert A. Gries, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman, Herbert A. Gries, and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality, as far as both the State and defendants were concerned.

11. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman John F. Moore, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman John F. Moore and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony on his examination on his *voir dire,* that he had an open mind and he



would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

12. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman John Christiansen, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman John Christiansen and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

13. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman Edgar C. Desch, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Edgar C. Desch and over the objection of defendants, excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony, on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

14. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman, Harry H. Gimbel, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Harry H. Gimbel and over the objection of defendants excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony on his examination on his *voir dire* that he had an open mind, and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

15. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman, George R. Jordan, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman George R. Jordan and over the objection of defendants excused him from his right to serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

16. There is manifest error in this, the Trial Court, on the examination on his *voir dire,* of the talesman, Henry M. Beckman, over the objection of the defendants, erroneously and illegally sustained the challenge of the State for cause of the talesman Henry M. Beckman and over the objection of defendants excused him from his right to



serve as a juror in the case, he having been satisfactory to the defendants and the said talesman proving by his testimony on his examination on his *voir dire,* that he had an open mind and he would decide the case on the evidence, and on the evidence only, and his mind was free from bias, prejudice or partiality as far as both the State and defendants were concerned.

17. There is manifest error in this, the Trial Court, over the objection of defendants refused to permit more adequate and comprehensive further cross examination of the expert surveyor and witness for the State, John J. Bracken, regarding the location of the building, etc., of the Reid Ice Cream Co., in front of which the alleged crime is alleged to have taken place.

18. There is manifest error in this, the Trial Court over the objection of defendants permitted the State to offer in evidence a certain photograph which was alleged to portray the situs, etc., of the alleged crime and which said photograph was taken subsequently to the date of the alleged crime. Said photograph contained and pictured certain objects, movable and otherwise, which were not proven to have existed in the same manner and place as at the time of the alleged offense, and which photograph contained matters and things not evidential against the said defendants. The admission of the said photograph being highly prejudicial to the legal rights of the said defendants.

19. There is manifest error in this, the Trial Court refused to permit the witness, Robert Boudreau, for the State, to answer the following question asked by the defendants: Q Who did you go around with about the time this

hold-up occurred, who were your friends? And further refused to permit further cross examination of the witness, Robert Boudreau, for the State, in respect to ascertaining from him who were the people whom he associated with about the time of the alleged crime.

20. There is manifest error in this, the Trial Court refused to permit the witness for the State, Robert Boudreau, to answer the following question asked by the defendants regarding certain statements made by the said Boudreau to the police of the Newark Police Department:

Q How long after that was the next one signed?

And the Court further refused to permit the defendants to further cross examine the said witness Robert Boudreau for the State to test his credibility regarding certain contradictory statements that he is alleged to have made, which refusal was highly prejudicial to the legal rights of defendants.

21. There is manifest error in this, the Trial Court refused to permit the witness Robert Boudreau for the State to answer the following question asked by defendants:

Q Two statements you made before and which you signed differ from each other and differ from the testimony given by you at this trial?

22. There is manifest error in this, the Trial Court refused to permit the witness Robert Boudreau for the State to answer the following question asked by the defendants:

Q And they committed crimes with you, did they not?



23. There is manifest error in this, the Trial Court refused to permit the witness Robert Boudreau for the State to answer the following question asked by defendants:

Q Do you swear that you never came back from Scotch Plains on that night?

24. There is manifest error in this, the Trial Court refused to permit the defendants to further cross examine the said witness Robert Boudreau for the State for the purpose of laying a foundation for the testing of his credibility regarding certain conversations that he had with different people regarding other robberies that he was alleged to have participated in prior to the date of the alleged crime in question.

25. There is manifest error in this, the Trial Court refused to permit the witness Robert Boudreau for the State to answer the following question asked by the defendants:

Q Why did you testify this morning, under cross examination by Mr. McGeehan, that you were in company with Little Joe Juliano at the Firestone Athletic Club in Newark in April of this year?

And also because the Trial Court limited further cross examination of the witness Boudreau to an examination only upon the evidence given by him on his direct examination on the part of the State and excluded defendants from further cross examination on the cross examination of other counsel which was highly prejudicial to the legal rights of defendants and constitutes reversible error.

26. There is manifest error in this, the Trial Court refused to permit the witness Robert Bou-

dreau for the State to answer the following question asked by the defendants:

Q Do you desire to take advantage of the opportunity to retract the testimony?

27. There is manifest error in this, the Trial Court refused to permit the witness Philip Seigel for the State to answer the following question asked by defendants:

Q Did you tell the officer who came to your store, the detective, that one of the persons that you saw was a young man about thirty-five years old, 5-11 and thin face and light complexion?

28. There is manifest error in this, the Trial Court refused to permit the witness Philip Seigel for the State to answer the following question asked by the defendants:

Q Didn't you tell the detective who came to your store a couple of days after the hold-up that there were four men and not five men in the hold-up?

29. There is manifest error in this, the Trial Court refused to permit the witness Philip Seigel for the State to answer the following question asked by the defendants:

Q Who was that officer, do you know what his name was?

30. There is manifest error in this, the Trial Court refused to permit the witness Philip Seigel for the State to answer the following question asked him by the defendants:

Q Did Captain Brex express amazement at the speed with which you picked them out?



31. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Joseph P. Duff for the State to testify as follows:

Q Now, at any of these line-ups, outside of the line-up on Sunday, October 17th, did you see any man whom you saw at the hold-up on July 19th? A No, I didn't.

32. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Raymond C. McKenna for the State to testify as follows:

Q What did you hear, or what happened that attracted your attention? A Why, I heard one of the girls in the office say—

Q You heard one of the girls say something? A Yes.

33. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Joseph Kenny for the State to answer the following question asked on his re-direct examination by the State:

Q And was that boy present at headquarters at the time these defendants were in the line-up in connection with the Reid's case?

34. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Joseph Kenny for the State to answer the following question asked on his re-direct examination by the State:

Q What case was he present in connection with?

35. There is manifest error in this, the Trial Court refused to expunge from the record the

answer of the witness Joseph Kenny to the foregoing question:

A He was brought in reference to the Ward case.

36. There is manifest error in this, the Trial Court on application of defendants, refused to grant a mistrial of the case in favor of the defendants on the ground that the foregoing testimony of the witness Joseph Kenny for the State created a disastrous and prejudicial affect on the minds of the jury, having called for by implication an answer that suggested an accusation or a suspicion of some charge against these defendants which had not been made against them, or any of them, by any Court or had not been the subject of any charge, accusation or indictment against them or any of them.

37. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you express amazement at the rapidity with which he put his hand on the five men?

38. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q And you expressed amazement, didn't you, then?

39. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Do you know whether Boudreau hung out at the Firestone A. C.?



40. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you know whether he hung out with those men at the Firestone A. C.?

41. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you ever question these men with regard to this case at all?

42. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you question Boudreau with reference to Pete Rogers and DePhillips?

43. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you ever question any other witnesses to the Reid hold-up with regard to any companions of Boudreau?

44. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you ever find out who the companions of Boudreau were after he was arrested?

45. There is manifest error in this, the Trial Court refused to permit the witness Captain

Brex for the State to answer the following question asked him by the defendants:

Q Do you know whether or not Boudreau hung out around the corner there of the Reid company?

46. There is manifest error in this, the Trial Court refused to permit the witness Captain Brex for the State to answer the following question asked him by the defendants:

Q Did you question Boudreau about whether he did or not?

47. There is manifest error in this, the Trial Court refused to direct a verdict at the close of the State's case, in favor of Nicholas Joseph Juliano.

48. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q Did he ever invite you to go with him to Long Island on any stick-up? Exception.

49. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q Did he say anything to you about your cousin Big Joe Juliano, Christopher Barone, and Louis Capozzi? Exception.

50. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q Did he make any promises to you that afternoon that if you corroborated Boudreau



that Christopher Barone and Big Joe Juliano and Capozzi were there that he would get you off? Exception.

51. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following question asked him by the defendants:

Q Now, Mr. Juliano, did he say anything else to you, did Captain Brex say anything else to you that afternoon? Exception.

52. There is manifest error in this, the Trial Court refused to permit the witness Nicholas Joseph Juliano for the defendants to answer the following questions asked him by the defendants:

Q On the second occasion were you questioned by Captain Brex? A Yes.

Q What did he say to you? Exception.

53. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness Nicholas Joseph Juliano to testify as follows:

Q Weren't you receiving your earnings?

Mr. Kavanagh: I object on the ground it is not proper cross examination, immaterial and incompetent.

The Court: I will allow it. Exception.

Q Didn't you have words with Boudreau because Boudreau objected to your beating up this girl when she did not bring in enough money? A I never beat her up.

Mr. Kavanagh: I object.

The Court: There was something in the direct testimony to that.

Mr. Bigelow: This defendant testified he had no words with Boudreau except on

another, on the occasion to which I refer and I want to test him on that point.

Mr. Kavanagh: Well, he testified he had an argument and he used the words, he had words with him. I object. It is not competent, relevant or material.

The Court: I will allow that.

54. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness John King for the defendants on cross examination by the State to testify as follows:

Q Wasn't she confined to an institution at one time? A Not that I know of.

55. There is manifest error in this, the Trial Court over the objection of defendants permitted the witness John King for the defendants on cross examination by the State to testify as follows:

Q You mean that she may have been and you not know it?

56. There is manifest error in this, the Trial Court refused to permit the witness Jennette Sorenson for the defendants to answer the following question asked by the defendants:

Q Did you receive a number of letters from him?

57. There is manifest error in this, the Trial Court refused to permit the witness Jennette Sorenson for the defendants to answer the following question asked by the defendants:

Q Do you remember being in an automobile with him that stopped in front of a lunch wagon in front of Clay street and Broad street and that he called a man out



of the lunch wagon and said he would be back later "We got a big job on tonight."

58. There is manifest error in this, the Trial Court refused to permit the witness Jennette Sorenson for the defendants to answer the following question asked by the defendants:

Q Can you tell us what the man looks like that he called out of that lunch wagon the night before he was arrested?

59. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: If reasonable doubt of guilt is raised even by inconclusive evidence of the alibi, defendants are entitled to the benefit of it. In that event a defense, which otherwise would overcome and put at naught the State's evidence, would simply be put out of the case.' "Now this reference or rather the application applies to all of the defendants in this case, because all have offered proof and testimony of their presence elsewhere at the time when this crime was committed."

60. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "Nicholas Joseph Juliano testified that he did not know Barone, that he knew his cousin Big Joe for some twelve or thirteen years, and he had a slight acquaintance with Capozzi by reason of Capozzi's association with his cousin."

61. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "At that time Myrtle Foster testified that there was a conversation between Barone and Boudreau—between Barone and Little Joe, and there was some reference made

about going to New York and meeting at their hang-out—''

62. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''It is a proper query at this time—'did Little Joe know Barone, was he sufficiently acquainted with him, or did he know this girl referred to as Chillie, that would justify this familiarity.' ''

63. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''Capozzi, in support of his defense, said—that he left to keep an appointment at twelve o'clock with Barone and Big Joe.''

64. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''Mr. Shelter of the Packard Company testified that he was at the St. Francis Hotel that morning. I think he said he left his own home about eight forty-five, and made a stop for Silverman at Elizabeth avenue, and then proceeded to the St. Francis, and waited until Mr. Silverman came out with the signature of Roma, whom he knew Ruff to be, or Capozzi;—''

65. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''Mr. Shelter further testified that on Sunday, Max Silverman was at his home in company with Barone, one of these defendants, and I think Buck Joseph, if I am not mistaken, was also present, and at that time a duplicate set of papers were given to Silverman for Roma's signature.''



66. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''He testified that he had an appointment with Barone and Big Joe, and they met pursuant to that appointment at or near Childs', or at 18 Treat Place; that they went to Weber & Heilbroner, and made some purchases, and then later on Big Joe went to the railroad station to meet Miss Dot. Miller.''

67. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''—And, then, I think, we had as a witness an ex-police officer, Kelly, who met Big Joe at Chille Grande's in the neighborhood of twelve o'clock, and then rode down town with Big Joe to keep his appointments with Capozzi and Barone.''

68. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''Mr. McDonald, the owner of the garage, testified as to the selling of grease, but he did not see Barone, the defendant, at that time—''

69. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: ''At that time he saw Big Joe get out of the car with another man, whom he now says is Little Joe. He says the reason why he fixes the time at five minutes to eleven is because he made his pull at a signal box. Yesterday, Lieutenant Rowe of police headquarters, testified that Officer Manning made this pull at eleven o'clock at the box which Officer Manning testified he pulled from.''

70. There is manifest error in this, because the Trial Court erroneously charged the jury in

part as follows: "Then, too, you have a right to consider, in measuring the value of testimony, the interest that any one has in the outcome of this case.

What interest has the wife, the mother-in-law, the father-in-law, the sisters-in-law, the brother of Little Joe Juliano? What interest has Dot Miller and her mother? What interest has Catherine D'Amato, Amore, Policeman Kelly? What interest has Barone's sister-in-law, brother and cousins?

You may ask yourselves very properly in considering the testimony of the defendants, in the light of the interest they have in this case.

These men are charged with crime. Your verdict is going to determine whether or not they are convicted or acquitted, and you may very properly consider the interest they have in the outcome of this case. What interest have the police? What interest has Mr. Seigel? Miss Hanley and Miss Gillard, and Mr. Oliver?"

71. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "You men are vindicators of the law, charged with the responsibility. You should be mindful, on the one hand, of your obligation to the prisoners, and, on the other hand, what is due to public justice."

72. There is manifest error in this, because the Trial Court erroneously charged the jury in part as follows: "When I read to you the Statute in this case, I pointed out that the crime these men are charged with is murder, and that the Statute makes a murder in the perpetration of the robbery to be murder in the first degree.



I charged you that in this case your verdict ought to be, if you believe the defendants, or any of them, guilty of murder in the first degree. If you are not satisfied from the proof that the State has made out a case beyond a reasonable doubt as to any or all, your verdict ought to be 'not guilty.' In other words, there should be one of two verdicts, a verdict of murder in the first degree or an acquittal."

73. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the first request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "These defendants is presumed to be innocent and the burden of proof is upon the State to prove them guilty of the charge contained in the indictment beyond a reasonable doubt, and if the evidence fails to convince you beyond a reasonable doubt of the guilt of these defendants it is your duty to acquit.

74. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the first request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "In order for the jury to reach a verdict either of guilty or of not guilty, each and every juror must agree to such verdict, as the verdict must be unanimous, and not by a mere majority of the jurors. It is the duty of each juror to vote to acquit if such juror is not convinced beyond a reasonable doubt of the defendant's guilt."

75. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the third request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "In determining the guilt or innocence of this defendant, you take into consideration, not only the evidence in the case, but also the lack of such evidence as you deem to be essential in determining beyond a reasonable doubt the defendants' guilt or innocence."

76. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the fourth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "The defense in this case of the defendant, Nicholas Joseph Juliano, is that of complete innocence of the commission of the crime charged in the indictment, and in conjunction with and in support thereof, this defendant has testified that he was not at the place where the alleged crime was committed, when it was committed, and this feature of the evidence is termed in law, an alibi, and if a reasonable doubt of guilt is raised, even by inconclusive evidence of an alibi, this defendant is entitled to the benefit of that doubt and to an acquittal."

77. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the fifth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to



charge, one hour before the Trial Court charged the jury, which request was as follows: "Certain motions for directions of verdict of acquittal were made to the Court by this defendant which the Court denied, but you must not consider the rulings of the Court, as in determination of any of the facts in dispute, or even as indication of the Court's opinion as to the facts the Court having merely ruled that the evidence presents questions of facts for the jury rather than questions of law for the Court."

78. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the sixth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "In considering the question of the guilt of this defendant, I charge you that you are not to take into consideration the fact that such defendant has been previously convicted of crime, except as far as this fact may affect his credibility as a witness in this case, and under no circumstances may you take it into consideration as creating any probability that this defendant was guilty of the crime charged in the indictment, nor should it influence you in any way in passing upon his conduct or actions at the time mentioned in the indictment."

79. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the seventh request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "In this

case the presence of this defendant at the scene of the commission of the crime must be proven beyond a reasonable doubt, and if you have a reasonable doubt as to the presence of this defendant at such scene of the crime, then he must be acquitted. Even if the jury should find that this defendant has not proven his absence from the scene of the crime, or his alibi, yet if the testimony as to such alibi creates such a degree of uncertainty as to his whereabouts that the jury is not satisfied beyond a reasonable doubt of his guilt of the crime for which he is indicted, he is entitled to an acquittal.''

80. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the eighth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: ''The jury is instructed that the indictment in this case is of itself a mere accusation or charge against this defendant and creates no presumption whatever of his guilt and is not of itself an evidence of the guilt of this defendant who is presumed to be innocent in spite of the indictment.''

81. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the ninth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: ''The circumstances of this case are such that Boudreau's testimony is the testimony of an alleged accomplice and the jury has the right to exercise care



and caution in convicting upon the testimony of such alleged accomplice, and the jury has the right and it is its duty to scrutinize with great care the motives which may have actuated Boudreau and his general credibility before accepting his testimony as true.''

82. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the tenth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: ''The Court instructs the jury that the law does not require that this defendant sustain the burden of proving himself innocent, but the law imposes upon the prosecution the burden of proving that this defendant is guilty in manner and form as charged in the indictment beyond a reasonable doubt.''

83. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the eleventh request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: ''In the investigation of all matters of fact and in the weighing of the evidence, the jury has not the right to assume the guilt of this defendant and then try to reconcile the testimony with a theory, but it is the sworn duty of the jury to presume the innocence of this defendant and to give him the benefit of such presumption all through the trial and at every stage of the investigation of the evidence in the jury room until it is overcome,

if it should be overcome, by proof beyond a reasonable doubt, and the evidence in order to establish the guilt of this defendant must not only be consistent with the theory of guilt, but must be inconsistent with and exclude every reasonable theory of innocence, and as long as the jury are able to reconcile the evidence with any reasonable theory of the innocence of this defendant, the law makes it their duty so to do; and if, upon a full consideration of all the facts in the case, the jury entertain a reasonable doubt as to whether this defendant is guilty of the crime charged against him in the indictment, then you should find him 'not guilty.' ''

84. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the twelfth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: ''The jury are further instructed that if, upon a fair and impartial consideration of all the evidence in the case, they find that there are two reasonable theories equally supported by the testimony in the case, and that one of such theories is consistent with the innocence of this defendant, then it is the policy of the law and the law makes it the duty of the jury to adopt that theory which is consistent with the innocence of this defendant and to find him 'not guilty.' ''

85. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the thirteenth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court



to charge, one hour before the Trial Court charged the jury, which request was as follows: ''You may take into consideration as affecting the credibility of the witness Boudreau, the fact that he admitted having previously made statements contrary to his testimony in this trial, and if you believe that the witness Boudreau, by reason of this fact, or by reason of the fact that he has previously been convicted of crime, is totally unworthy of belief, then you are entitled to entirely disregard his testimony in this case.''

86. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the fourteenth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: ''You may take into consideration as affecting the credibility of the witness Seigel, the evidence that he previously picked out one Bielke as one of the five persons whom he testified he saw at the scene of the crime committing the same.''

87. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the fifteenth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: ''The jury may take into consideration as affecting the credibility and accuracy of each witness the conflicts between the testimony of such witness and the various other witnesses for the State as to the defendant being seen or recognized by

such witness according to his testimony at the trial."

88. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the sixteenth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "You may take into consideration in determining the credibility to be given to the testimony of any witness, the probabilities and reasonableness of the truth of all his statements in evidence, and if you find that the testimony of any witness is improbable in any essential part and is not believed by the jury, the jury has the right to reject the remainder of such witness' testimony as believes him unworthy of belief.

89. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the seventeenth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "The jury should take into consideration the fact that several witnesses testified for this defendant, who testified that they were present at the scene and time of the hold-up and who saw some of the perpetrators of the crime, and who had testified that this defendant was not the person seen by them, and if such evidence raises a reasonable doubt of the guilt of this defendant, it is the duty of the jury to acquit."

90. There is manifest error in this, because the Trial Court erroneously failed and refused



to charge the eighteenth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "The jury may take into consideration as affecting the credibility of the testimony of the witness Boudreau to the effect that he knew and participated in the crime with this defendant, the evidence that before picking him from the line-up at headquarters before the trial, and before giving his evidence in the trial, he obtained a view of him while he was concealed or partly concealed in the telephone booth at police headquarters."

91. There is manifest error in this, because the Trial Court erroneously failed and refused to charge the nineteenth request to charge of the defendant, Nicholas Joseph Juliano, although said request was submitted to the Trial Court to charge, one hour before the Trial Court charged the jury, which request was as follows: "If the jury shall find that the State does not sustain the burden of proving beyond a reasonable doubt that the defendant Nicholas Joseph Juliano is guilty, he is entitled to an acquittal."

92. Because manifest injustice was done to the defendants by the whole charge of the Court.

93. That it was impossible for the jury to learn from the charge of the Trial Court what facts, if proved to their satisfaction without a reasonable doubt, would warrant the jury in convicting the defendants.

94. The defendants assign as error and specify as causes for reversal under the Pro-

visions of Chapter 349 of the Laws of 1921, that the verdict was against the weight of the evidence.

95. The defendants, further assign as error that there was no creditable testimony to support the verdict.

96. Because in other respects the verdict and judgment were erroneous.

97. That the charge of the Trial Court to the jury as to the law of the case was confusing, inconsistent, contradictory and misleading.

98. That the charge of the Trial Court was calculated to produce to the minds of the jurors misapprehension and mistake as to the law of the case.

99. The evidence could not satisfy a considerate mind beyond a reasonable doubt that the defendants are guilty of murder in the first degree.

100. The verdict was contrary to the evidence in view of the contradiction improbabilities and insufficiencies in the testimony.

101. The verdict was the result of mistake, passion, prejudice and partiality.

102. The Trial Court admitted in evidence proof of defendants' previous crime and conviction, unconnected with the offense charged, and irrelevant to the issue of their guilt.

103. The verdict was the result of mistake, passion, prejudice and partiality.



Plaintiffs-in-error pray the judgment of their conviction may be reversed for the aforesaid reasons.

WILLIAM A. KAVANAGH,
Attorney for and of Counsel with
Plaintiff-in-Error,
Nicholas Joseph Juliano.

Service of the within is hereby acknowledged this 25th day of January, 1927.

J. O. BIGELOW.