

July 26th, 1924.

10:00 o'clock A.M.

Court convened at 10:00 o'clock A.M. July 26th, 1924, pursuant to adjournment heretofore taken.

Present: Same as before.

J A M E S J. G O R T L A N D,

was recalled as a witness on behalf of the prosecution, and being further examined in chief by Mr. Crowe, testified as follows:

Q What is your name?

A James J. Gortland.

Q You are the same James J. Gortland who was testifying yesterday afternoon when court adjourned?

A Yes sir.

MR. CROWE: You may cross examine, Mr. Darrow.

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CROSS EXAMINATION

BY MR. DARROW.

Q Mr. Gortland, you are a policeman?

A Yes sir.

Q How long have you been on the police force?

A In the active department about seven years.

Q Seven years?

A Yes sir, and previous to that in the clerical branch.

Q How is that?

A Previous to that as a stenographer in the same department.

Q Whereabouts, what office?

A Well, at the Kensington Station and the Deputy Superintendent of Police.

Q During this seven years, what positions have you held in the department?

A I have been a stenographer in the Deputy's office and --

Q Well, I mean during the last seven years since you have been on the force?

A Clerical.

Q Since you have been on the force?

A Clerical, and I have been on gambling and vice,
Secretary to the Morals Inspector.

Q Secretary to what?

A To the Morals Inspector.

MR. CROWE: Secretary to or of?

A To.

MR. CROWE: To the Morals Inspector?

A Yes.

MR. DARBOW: Q Who was the morals inspector?

A At that time it was Sergeant Hugh McCarthy.

Q When did you leave that place?

A When?

Q When did you leave that job?

A In the year 1918 when the Morals division was
abolished. The officers were taken out of there in
1919.

Q Then what did you do?

A Well, I was taken out of there at the time of the
riot on the South Side and I was sent to the Stanton
Avenue Station on the riot, on the clerical end

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of it and handling the telephones at the different points where the rioting was going on, checking in different reports of disturbances.

Q That riot you refer to was the one between the whites and the blacks?

A Yes sir.

Q Then what did you do after that?

A Then I came back and was in the Deputy Superintendent's office.

Q In what position?

A Stenographer. After that the homicide squad was created and I was sent in there to take stenographic notes of witnesses on homicide cases.

Q When did you leave that position? A I left that about three years ago.

Q About three years ago?

A Yes.

Q Then what did you do?

A I went as secretary to Chief of Detectives Hughes.

Q I beg your pardon, I didn't hear that.

A Secretary to Chief of Detective Hughes in the Detective Bureau.

Q And that is your position now?

A Yes ir.

Q Let me see. How long have you been connected with the police department in all ways?

A Oh, about twelve years.

Q About twelve years?

A Yes.

Q What was your business before that?

A I was Chief Clerk to the train Master of the Michigan Central.

Q Have you in your business been called upon, or acted at different times in getting statements from people accused of crime?

A That is correct.

Q For how long?

A During my continuous service in the police department for the entire period.

Q Did you take them on your own account or write them for somebody else?

A In both ways.

Q When you took them on your own account, who wrote them?

A I wrote them myself, right on the machine, the

questions and answers.

Q At the time?

A Yes.

Q Has that been your uniform habit of writing a report?

A My custom is to take the testimony right directly on the machine.

Q Is that what you did in this case, in the various interviews you have spoken of with Leopold?

A No sir, I did not.

Q Did you write them?

A No sir.

Q None of them?

A Only notations myself, on different occasions.

Q Did you make notations?

A At different times I made notations of probably an outline of my testimony.

Q Did you make notations at the time?

A Shortly thereafter.

Q Shortly thereafter?

A Yes.

Q What did you do with them?

A I have some

of them in my pocket.

Q Do you have them with you now?

A I believe so.

Q Will you let me see them?

A Yes sir.

(Witness producing papers and handing same
to Mr. Darrow).

Q Are the papers you hand me all the notations
you have made of the various conversations in this
case?

A Probably not all of them.

Q Where is therest of them?

A I don't know just exactly what is on there, I may
have had other conversations with friends on there.

Q Did you make notations of all your conversations,
sir?

A Not all of them.

Q What?

A Not all of them, no sir. I have other memoranda
here (indicating in book).

Q Were these notations in shorthand here or in
longhand?

A In both.

Q In both longhand and shorthand?

A Yes.

Q Have you ever written them up?

A No sir.

Q What are those in the book, longhand or shorthand?

A Shorthand, and then I have a trace of the whole case here.

Q Were those notations made at the time?

A These were made as we were preparing the case, and this here was made --

Q Wait a minute now.

A -- shortly thereafter.

Q Were those notations made at the time that you purported to have these interviews that you have testified to?

A Not exactly, not right that day, but shortly thereafter.

Q How soon thereafter?

A Oh, within a

week thereafter.

Q Within a week?

A Yes sir.

Q You carried them in your head for the week, did you?

A That is correct.

Q Do those notations in the book, together with these, constitute all the notations you have made?

A They do.

Q Those are in shorthand?

A Yes sir.

Q What system do you use?

A Mynson.

Q What is that?

A Munson, plus some variations of my own.

Q And is that book devoted to this alone?

A That is all just about this case.

Q Nothing but this case?

A That is all.

Q Will you let me see them?

A Yes, certainly.

(Witness handing document to Mr.

Darrow).

Q Did you ever write them up?

A No sir.

Q Never for any purpose, or given them to anybody?

A Only for my own information.

Q But you never gave anybody a written report of them?

A No sir.

Q When was the first conversation you had with Leopold?

A The first conversation?

Q Yes.

A At the time of his arrest on the way down to the LaSalle Hotel.

Q Will you tell me whereabouts it is in this book or in these papers?

A That is not in there.

Q It is in neither one?

A No sir.

Q When was the second conversation? A There were conversations of course in his home.

Q Is that in here?

A No sir.

Q You have got no written memoranda of it anywhere, have you?

A I believe -- I don't think I have. I started to make at least an outline -- I started at one time to write up the whole -- to write up my whole dealing with the case. I have one page here. (handing document

to Mr. Darrow).

Q When did you do that?

A Within a short time after the case started . It was probably --

Q Can you tell when? A Oh say a week after, after I had time.

Q A week after your last interview?

A Yes sir.

Q Have you got that document there?

A Yes sir.

Q Is that all of it? A I believe there was a second page.

Q A second page?

A Yes.

Q Can you find it?

A Here are two other pages (handing documents to Mr. Darrow).

Q When did you write these last two pages?

A They come with that first page.

Q With the first page?

A Yes.

Q You wrote them at the same time, did you?

A yes sir.

Q I have got them all now, have I?

A I believe so.

Q Where did you write them?

A The shorthand notes I believe I wrote at home, at my convenience, and the typewriting I think I wrote in the State's Attorney's Office. I did write it in the State's Attorney's office.

Q Don't you know where you wrote it?

A I did write it there, I wrote it in the State's Attorney's office.

Q Did you write it from the shorthand?

A I wrote it from my memory, tracing through.

Q Then your shorthand was not complete?

A The shorthand, I never did transcribe certain parts of it.

Q Have you now given us all that you did transcribe?

A I have now given you all my notes that I remember, outside of the notes of the witnesses and other addresses and memorandums of different things.

Q Did you have these here yesterday with you?

A Yes sir.

Q And you have looked to see what you have?

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A Yesterday?

Q What is that?

A Do you mean yesterday?

Q Well, sometime?

A Oh at different times, sure. I have refreshed my memory from them right along.

Q Did you look since you were on the stand yesterday to see whether you had any more?

A No sir, I didn't refer to these at all.

Q What is that?

A I didn't look at these at all yesterday.

Q Nor today?

A No sir.

Q You had them with you though yesterday?

A Yes sir.

Q When was the last time you looked at them?

A The last time I looked at them -- what is today? Thursday night I went over them.

Q When did you write the paper -- strike that out. Is that paper which is attached to the notes in your handwriting?

A It is.

Q When did you write it?

A Thursday?

Q What thursday?

A On Thursday of this week.

Q That was the first time you wrote it?

A That is the first time I made that notation, yes sir. That is all contained in the shorthand notes, in probably more elaborate form.

Q You mean what is contained in there is contained in the shorthand notes?

A That is for a reminder for me.

Q What is that?

A That is for a reminder for me. As soon as I see those different couple of words it refreshes my memory.

Q Can you show me where it is in the shorthand notes?

A It is in the other.

Q What?

A It is the other; the first here is about confessing. I asked him why he had confessed --

Q Wait a minute.

A All right.

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Q Will you show me where it is in the shorthand notes?

A I asked him why he had confessed --

Q Now let me just put a pencil figure "1" on that.

A Allright, sir.

Q That is the page, is it?

A That is the first page I have here. The next is motive about confessing.

Q Is that all on this page which I have marked "1"?

A Oh no, there is other subjects there.

Q Well is there anything about that subject on this page -- anywhere else except on this page?

A No sir.

Q What other subject is on here?

A Motive.

Q Where is that?

A I don't know. It is in this paper. I have got "motive".

Q That is on page 1?

A Right here (witness indicating).

Q Motive?

A Yes.

Q Motive is on page one? A That is on the same page, yes sir.

Q All there is about motive is on page one?

A That is enough to refresh, to recall to my mind --

Q All that you have in writing is on page one?

A Yes sir.

Q All right, take the next one -- memorandum there?

A Have you got it?

Q Oh, excuse me. I will try to keep these right for you. I will try and hold that one in my hand, you can arrange them if you want to. This is mine (indicating).

A Next -- do you want me to read this now?

Q Yes.

A "What defense would be, not guilty, guilty, sanity."

Q Where is that?

A ~~Here~~ Here (witness handing paper to Mr. Darrow) .

Q Now, this is under the memorandum of --

A Page 1.

Q Oh yes, that is on page 1?

A Yes sir.

Q The memorandum in reference to what the defense would be, insanity?

A Yes.

Q Yes that right?

A Yes sir.

Q All right. Now, you have got three of them, haven't you?

A Yes sir, sanity, just to refresh my memory.

Q Sanity?

A Yes.

Q Now what is the fourth note, where is that, what does that say?

A "Sanity. Sorry for Franks."

Q "Sorry for crime". Where is that?

A "Sorry for Franks."

Q That is on the first page?

A I found another page.

Q Now, this is about sorrow, or lack of sorrow?

A About lack of sorrow, about the subject "I am sorry for Franks people".

MR. CROWE: Speak a little louder, Jim.

THE COURT: Speak a little louder please.

A "Sorry for the Franks people."

MR. DARROW: Q What you mean is that that is the subject?

A The subject, yes.

Q That was covered on that day?

A Yes.

Q Now just lay them down for a minute, please?

A Yes sir.

Q Who was with you when you had your conversation at the Franks house -- or at the Leopold house?

A At the Leopold house?

Q Yes.

A Do you mean at the time we went to get the case for the glasses?

Q Yes.

A There was Mike Leopold -- do you mean -- Mike Leopold was present.

Q Who was with you from the department?

A William Crot was downstairs.

Q Was anybody upstairs with you where you were when you talked with --

A To which conversation do you refer, Mr. Darrow?

Q I refer to the first one.

A That was all, just Mike Leopold, we were in the front room there.

Q And all that you heard there was said in the presence of Mike Leopold?

A Yes sir.

Q Is that the time you got the two guns?

A The two guns?

Q Yes.

A Oh, the two guns was another occasion.

Q Well, I just ask you for the time. That was another trip?

A Yes sir.

Q How many times did you have a conversation with Nathan Leopold, Junior in the house?

A In the house?

Q Yes.

A That was the only time I was with Nathan Leopold in the house, was the occasion of the returning there to give him an opportunity to find his glasses, and the time we went in there and got the boots.

Q Mike Leopold was there and nobody else?

A Mike Leopold and -- well, his aunt and the maid were aroundin there, but I don't remember their presence. You know they were running in and out looking for the case or for the glasses.

Q Well, Nathan was running in and out looking for the glasses too, wasn't he?

A Oh yes.

Q Now, when you got the gun -- when you got the guns Nathan wasn't there?

A No sir.

Q There were two beds in that room, were there not?

A Yes sir, two beds -- where the guns were, do you mean?

Q Yes.

A No sir.

Q Do you know whose room it was?

A It was represented to me as Nathan's, or I gathered that impression from the fact that he went in there looking for his glasses.

Q Did anybody inform you whose guns they were?

A No sir, not at that time.

Q Didn't they tell you that one was Nathan's and one was Mike's?

A No sir, not me.

Q What?

A I wasn't the one they told that to.

Q Nothing was said about it?

A Not in that room, no sir.

Q To you?

A Not to me.

Q All right. They were in different bureaus, weren't they?

A They were.

Q On different sides of the room?

A Yes sir.

Q Weren't there two single beds in that room?

A There were two single beds in another room directly back there where, on the first occasion, Mike Leopold was when we entered.

Q And this room connected with -- these two rooms connected, didn't they?

A You had to go out in the hallway.

Q Was there any bed at all in this room where the guns were?

A Yes sir.

Q A single bed or a double bed, or don't you remember?

A I don't remember the size of it.

Q All right.

A I wasn't paying any attention to that detail.

Q Now when was the first conversation you had with him, and where, after that time?

A After going for the glasses?

Q Yes.

A The next conversation -- on our trips we had conversations, but I don't remember what they were. The next one that I remember was when we went into his room, in the room where he turned over the boots.

Q Who was with you then?

A Assistant State's Attorney Joe Savage and William Lang.

Q And who?

A Sergeant William Lange.

Q Nathan wasn't there?

A Oh yes.

Q I thought you said you only saw him there once.

A I corrected that.

Q Oh you did?

A Yes.

Q You saw him twice? A I said I was to
his house twice with him, yes.

Q Well, I understood you otherwise there, but
I was probably wrong?

A I corrected it.

Q I understood you to say he was only there once?

A I corrected it.

Q He was there both times?

A Yes sir.

Q All right. Was Mike there that second time?

A Well, I wouldn't be positive whether he was or not.

Q Where was the first place you saw him to have
any conversation with him after the time that you
saw him at the house?

A It was during our trip, going around to the differ-
ent places, there was a continual conversation on the
whole trip.

Q Where were you riding?

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A I was riding with Leopold.

Q On what seat?

A I was riding on one of the spare seats, I was riding behind the driver, and at other times I changed over, we got in and out.

Q Who else was there?

A Assistant State's Attorney Savage and a stenographer was there.

Q Who was the stenographer?

A He was a

stranger to me.

Q From the State's Attorney's office?

A I presumed he was in their employ.

Q And where was he riding?

A He was riding in the extra seat next to me on occasions --

Q You and he were riding on the extra seat in the back?

A Yes sir.

Q Is that right?

A Yes sir.

Q You and the stenographer were riding?

A Yes sir.

Q Now where was Leopold?

A In the back seat.

Q Was anybody else in the back seat with him?

A There was some other officer there, but I don't recall who it was.

Q There was somebody there?

A Yea sir.

Q Where did you see him after that, when you had conversations with him?

A Well during that -- do you mean --

Q What is that?

A Does that eliminate that entire trip for that day?

Q Yes, that trip?

A After that?

Q After that trip?

A After that trip?

Q Yes.

A That trip was on Saturday, then we went to the Windermere Hotel where we had dinner and he went to bed. The next occasion, the next time that I saw him was on Sunday afternoon, June 1st.

Q Whereabouts?

A At the State's

Attorney's office.

Q Did you have a conversation with him there?

A Yes sir.

Q Who was with you?

A Nobody but he and I.

Q What room were you in?

A Room five.

Q And how long did you talk with him?

A Just
a short while.

Q Did you make any memoranda of it?

A Not at that time.

Q Did you at any time.

A Later on.

Q Where, where is it?

A (Witness handing paper to Mr. Darrow).

Q That conversation is on page 1, the page marked
"1" isn't it?

A Yes sir.

Q Is any of it on any other page?

A Also on this page.

Q That is page two, or one that has not been marked?

A You have got page two, that has not been marked.

Q On page one and two?

A Yes sir.

Q Is that all?

A Yes sir.

Q Where was it that you had the conversation which you related here about the subject that a jury would hang him, but he might get before a friendly judge and might not be hanged?

A In that room.

Q At that time?

A Yes sir.

Q You and he alone?

A That is correct.

Q Where is your memorandum of that?

A Right here (witness indicating).

Q Read it, and read it literally just as you have got the words there?

A "I then asked him what his defense would be. He said he didn't know until after he had conferred with his father and lawyers, he would be governed by their judgment. He said if they wanted him to hang I will plead not guilty and the jury will hang me, or

my father -- or maybe plead guilty before a friendly judge and get life imprisonment. You know I have a number of ideas that I can give to the world that would be -- that would give me an opportunity to work on some matters I have in mind to give to the world, and then there is the insanity plea."

Q Is that all?

A That is all.

Q Have you got any reference to it anywhere else?

A No sir.

Q That you say was made in your house?

A That was made in the house at different times. All this ^{here} ~~was~~ was made in the house at different times.

Q At your own house?

A Yes sir.

Q Was anybody present when you made it?

A No sir.

Q Have you got a typewriter in your house?

A No sir.

Q You have access to a typewriter, haven't you?

A At the Detective Bureau, yes sir.

Q But you never copied it?

A No sir. I have been making notations at different times.

Q You never gave a copy of that to anybody?

A No sir.

Q Where did you keep these reports?

A I have been keeping these in my pocket. I never gave a copy of them to anybody, but I told somebody in an interview.

Q I am not speaking about a copy, I will ask you about that later.

A All right.

Q Have you carried them in your pocket ever since?

A Yes sir.

Q You have never had them anywhere else?

A No sir.

Q To whom did you first speak about that conversation?

A The first party that I referred to I think were fellow officers, and then the next party, --

Q Well wait, let us take one at a time.

A All right.

Q Who was the officer?

A I think -- well, I am sure it was Sergeant Frank

Johnson.

Q Where? A That was in the State's
Attorney's office.

Q And when?

A That same night.

Q What night?

A It was -- well, I will place the date between ~~xxx~~
~~6xx~~ six and seven o'clock of June 1st.

Q Well, that was before you made these memoranda?

A Before I made the memoranda?

Q Yes, before you made these shorthand notes?

A Oh yes, certainly.

Q Who was the next person you spoke to?

A Genevieve Forbes of the Tribune.

Q And when was that? A I believe it was
the same night.

Q And that, of course, was before you made these
memoranda?

A Yes sir.

Q Who was the next person you spoke to about it?

A Oh, I spoke to a number of people that have
asked me, I have had conversations that I do not
recall, with citizens on the street and people of that

character.

Q About this special conversation?

A Yes sir.

Q Do you remember anybody else that you spoke to about it?

A Well, a number of people. Relatives I spoke to.

Q Do you remember their names?

A Well I was down in Fairbury, Illinois, and there were some people from Bloomington that I told it to while I was down there.

Q Well, who?

A The Salmons of Bloomington.

Q Who?

A The Salmons.

Q What is the first name?

A Thomas Salmon.

Q Thomas Salmon?

A Yes sir.

Q When were you there? A I was there on two occasions. Let me see. May I refer to the calendar?

Q Yes.

A July 12th and 13th.

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Q And that is the time you told them?

A Those are two of the people I remember I told it to.

Q What is the first name, did you give it?

A Thomas.

Q Thomas Salmon and the other one?

A And his wife.

Q Are they any relation of yours?

A No sir.

Q When did you talk with anybody in connection with the State's Attorney's office about this?

A I talked with Joe Savage.

Q When?

A Oh, shortly after that.

Q Who else did you talk with about it?

A Nearly everybody that asked me about the case I would tell it to them, and there were so many --

Q Who else connected with the State's Attorney's office did you ever make this statement to?

A I made it to Judge Crowe.

Q When was that?

A The first time I ever told Crowe was on Thursday night.

Q Last Thursday night?

A Yes sir.

Q Was that the first time that you ever mentioned it to Judge Crowe?

A Yes sir. I had already mentioned it to Joe Savage.

Q I am not asking you about that, I am asking you about Judge Crowe.

A All right.

Q That was Thursday night of this week?

A That is correct.

Q Where were you at that time?

A In his office.

Q Was anybody else present?

A I think Sbarbaro and Dr. Krohn, Dr. Singer, Mr. Ettelson and Mr. Marshall.

Q You did not write it out then, or it was not written out?

A No sir.

Q And you read it to him at that time as contained in this memoranda, did you?

A In substance.

Q In substance?

A I didn't show him

the memoranda then.

Q Now how many of these ~~tex~~ typewritten stenographic pages are there here?

A There are a number of them that I made at different times. I made additions as they occurred to me and came up.

Q The Thursday you mention of speaking to Judge Crowe was day before yesterday?

A Correct.

Q Is that right?

A Yes sir.

Q These memoranda here you made at different times?

A Yes sir.

Q That includes all the memoranda you have handed me, doesn't it?

A Yes sir.

MR. DARROW: I will mark the rest of them by numbers as one, two, three, four, five, six.

Q Did you make them all at your house?

A I did.

Q Is there any memoranda in your book that you have shown me containing what you say is a history of this

in reference to that conversation?

A Not a bit.

Q And there is no memorandum in any of your written reports, is there?

A I made a report to the General Superintendent of Police on this case. I don't know whether that is incorporated in that report or not.

Q Will you get it and see?

A Captain Shoemaker has a copy of it.

(Mr. Savage here handed the witness a report handed him by Captain Shoemaker)

THE WITNESS: No sir, it is not.

MR. DARROW: Q Will you let me see that document a minute?

A Yes sir.

(Whereupon the witness here handed the document to Mr. Darrow).

Q This report was made to the Chief of Police on June 16th, was it not?

A Yes sir.

MR. DARROW Pardon us a minute while we read this.

E:

Harvey
rels
Snyder
11:10 AM
7-26-24

THE COURT: Mr. Darrow, we will not take a recess but we will run until twelve o'clock. I told Mr. Crowe that. You may step down.

MR. DARROW: Just wait here.

MR. CROWE: Get down and sit here and don't talk to anybody until you go back on the stand.

THE COURT: Let the record show Officer Gortland is temporarily withdrawn.

MR. CROWE: Weinstein.

J A C O B W E I N S T E I N,

called as a witness on behalf of the People, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By

Mr. Crowe.

Q What is your name, please?

A Jacob Weinstein.

Q Where do you live, Mr. Weinstein?

MR. B. BACHRACH: Talk a little louder, please.

THE WITNESS: Jacob Weinstein.

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MR. CROWE: Where do you live?

A 5206 Engleside Avenue.

Q What is your occupation?

A Optician, general manager and general director of Almer Coe & Company.

Q Now, I will show you, Mr. Weinstein, a prescription and ask you if you have ever seen that before?

A Yes, sir.

MR. CROWE: That is People's Exhibit D of July 24th, 1924, for identification, being the prescription written and testified to by Dr. Emil Deutsch for Nathan Leopold, Jr.

Q When and where did you first see that?

A On or about November 1st, 1923.

Q And over at Almer Coe & Company?

A Almer Coe Company's Wabash Avenue store.

Q Now, did you do anything in reference to that particular prescription? Did you make any change in it, is there anything on it in your handwriting?

A Immediately after this prescription was left with us we received a telephone call from the physician that prescribed the glasses, Dr. Emil Deutsch, suggesting that

3 we change the axes of the left eye from 105 to axes
90.

Q And did you do so?

A Yes, sir.

Q And the pencil notation there is in your handwriting?

A It is in my own handwriting.

Q You scratched out 105 and wrote 90. Read the
balance there.

A "Axes ordered changed by Dr. Deutsch over phone."

Q Now, did you fill that prescription?

A May I say something?

Q Yes.

A I might say it is nothing unusual for an oculist to
ask a change to be made in a prescription over the phone.

Q Did Almer Coe & Company fill this prescription for
Nathan Leopold, Jr.?

A Yes, sir.

Q I will show you a pair of glasses and ask you if you
have seen them before?

A Yes, sir.

Q When did you first see them?

A On Wednesday -- may I see a calendar of the month of

4 May. It was the day previous to the announcement that the glasses were identified.

Q Well, had you seen them over at your place of business?

A Yes, sir.

Q I mean prior to that?

A No, sir.

Q Did you see them when they were made?

A No, sir.

Q Can you tell -- have you examined --

A I have.

Q -- and have you made a prescription of the glasses itself?

A Yes, sir.

Q And from your examination of them do you know where they were made, by what firm?

A There is no question, without a doubt they were made by Almer Coe & Company.

Q Now, what kind of a frame is that?

A It is a regulation type of imitation tortoise shell.

Q And what firm makes that frame?

A This is a frame that is ordered by specification of Almer Coe & Company from the Bowrow Optical Manufacturing

5 Company of Brooklyn, New York.

Q Do you know whether any other concern in Chicago handles that kind of a frame or not?

A There is no other firm in Chicago that handles a frame or the specifications of this type or design.

Q I will show you a record here and ask you to state what that is, if you know?

A This is a typical job envelope, such as our firm uses.

Q And what is shown on it? Will you read it and state to the Court what it is?

A This envelope shows that when the prescription was left with us by Nathan Leopold, his name is written first, his address, the time the spectacles are promised and supposed to be finished, A notation is made of lenses such as prescribed by the oculist in question, also the type or style of frame selected or fitted, also --

Q What type was selected here?

A A zylo-spectacle frame, which means an imitation shell frame. The envelope also shows the pupillary distance or dimensions between the patient's pupils.

Q What else does it show? Well, what does it show in

6 reference to that?

A This envelope shows -- in other words, the glasses shows that it corresponds exactly to the job envelope.

Q And to the prescription?

A And to the prescription, incidentally the distance between the eyes.

Q That is, the right eye is?

A The right eye is plus fifty axes ninety, and the left eye plus fifty axes ninety.

Q What else does it show?

A It shows the signature of the salesman who fitted and delivered the glasses to the patient.

Q And price eleven fifty?

A Also the price of eleven fifty, and charged to Mr. N. F. Leopold, Sr.

Q Now, are there any marks on the lenses there that indicate to you that it is an Almer Coe job?

A Yes, sir.

Q Where are the marks?

A On the outside, right hand side, there is a small diamond pit, or scratch; also on the outside of the left lense. This is a peculiar mark and put in a peculiar position, characteristic of our firm to denote where

7 the axis of a lens should be. There are several reasons for putting this axis mark or dot on each lens, the principal one is for the guidance of the patient and the optician. It frequently happens that a lens works loose in a sheel or celluloid frame due to climatic conditions. The lens is therefore apt to revolve or turn, therefore the axis mark is intended to stay all this at a horizontal position.

Q And from that you can tell these are Almer Coe glasses?

A Yes, sir.

Q I will show you a case here heretofore been referred to with a cut in it, Almer Coe & Company, Chicago, Evanston. That is one of your cases, is it?

A Yes, sir.

MR. CROWE: If your Honor please, I desire -- I don't know whether the glasses are in or not. Are they?

MR. SMITH: No, they are not.

MR. CROWE: Well, I desire to offer the glasses --

MR. SAVAGE: They are Exhibit 16.

MR. CROWE: If they are not, I will offer them again as People's Exhibit 16. I will offer the prescription as People's Exhibit -- what is the number?

8

MR. SMITH: 49.

MR. SAVAGE: It is in.

MR. CROWE: No, it is for identification.

(Document marked as requested by counsel.)

MR. CROWE: I would like to read it.

"Mr. Deutsch and L B Bernheimer."

What is that number?

"Eye, Ear, Nose and Throat, 30 North Michigan Boulevard. The telephones are Dearborn 9475 and Central 1414; hours 9:30 to 2."

The date is off and I am unable to give it accurately.

"Mr. Nathan Leopold, 4754 Greenwood; right eye is plus 50 axes 90, left eye plus 50, axes 105." In ink with a line through it in pencil, "axes ordered changed by Doctor Deutsch over phone. E. Deutsch", and then 258375 in red ink. What is that, your number?

A Yes, sir, consecutive number of prescription.

Q That is your number?

A Yes.

MR. CROWE: Mark that People's Exhibit what number?

MR. SMITH: 49.

(Document marked as requested by counsel.)

9

MR. CROWE: I offer in evidence the work sheet just testified to by the witness, of Almer Coe & Company, and ask that it be marked People's Exhibit 50.

(Marked as requested by counsel.)

MR. CROWE: I might read that. I will consider it read and let the reporters copy it in if there is no objection.

MR. B. BACHRACH: There is none.

THE COURT: No objection.

MR. CROWE: No. Consider it read and then you can copy it. The case for the spectacles, leather case, Almer Coe & Company, with Chicago and Evanston on it, mark that People's Exhibit 51.

(Marked as requested by counsel.)

THE COURT: Haven't you an instrument you put on the glasses after they come back?

A Yes, sir.

THE COURT: To see they conform to the prescription?

THE WITNESS: Yes, sir.

THE COURT: What is the name of that instrument?

THE WITNESS: Spherometer.

THE COURT: Did you use the spherometer on these glasses?

THE WITNESS: Yes, sir. There is also another way of testing. Before the spherometer was invented there was

10 another way --

THE COURT: Well, either way, did you make a test to find out whether those glasses conformed to the prescription?

THE WITNESS: Yes, sir.

THE COURT: And they do?

THE WITNESS: They do.

THE COURT: That is all.

MR. CROWE: That is all.

MR. DARROW: We would like to have the other witness back now.

THE COURT: Yes.

(Witness excused.)

11

J A M E S J. G O R T L A N D,

resumed the stand for further cross examination, by Mr. Darrow; and testified as follows:

MR. DARROW: I resume the cross examination, if your Honor please.

THE COURT: Yes.

MR. DARROW: Q This document which I hold in my hand contains twenty pages, and as you recall it, there is one page lacking, which is sort of a summary?

A Yes, sir.

Q Do you know where that page is?

A It must be in the superintendent's office or probably there is a copy in our Chief of Detectives' office.

Q That page only contains a --

A Summary of the officers working on the case and asking for credible mention.

Q Well, I don't need that. In this report you wrote, yourself, giving the history of this case on the day of June 18th, 1934, to the Chief of the Department?

A I did not write it all on that day, but there was a continuation as I had an opportunity. I would quit when I finished a page and take it up later, the next time

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I had an opportunity, and it was concluded in that manner.

Q Well, did you begin it on the 16th?

A Yes, sir.

Q It began on the 16th, and have you an idea of about how long you were doing it?

A It was delayed considerable at the time getting the names of the officers. The Chief wanted to be sure and get the names from the State's Attorney of his men and there was some delay in getting that.

Q And would you say it was finished a week or ten days ago?

A Oh, yes, sure.

Q Do you know -- I know you can't tel exactly and I am not trying to pin you down, but give us your best idea?

A Oh, yes, two weeks ago.

Q Two weeks ago?

A At least.

Q Or three? I don't desire to get you to say something-- I know it is purely an estimated time.

A Well, two or three weeks ago.

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Q That is the best of your remembrance?

A Yes.

Q And that was your report to the Head of the Department of this case?

A Yes, sir.

Q And it contains no mention of the conversation you spoke of, that we have been inquiring about?

A No, sir.

Q And there is nothing in writing anywhere that contains any mention of it except the typewritten notes that you refer to?

A No, sir.

Q Now, where are those notes? Did I take them or you have them, haven't you?

A Here.

Q The pencil memorandum pinned on?

A Oh,

(Witness hands document to counsel.)

Q This memorandum in your handwriting, I believe you say you made Thursday?

A Yes, sir.

Q Day before yesterday?

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A Yes, sir.

MR. DARROW: Well, I would like to have these marked for identification. Mark them Exhibit 1, cross examination of this date. It consists of six pages of shorthand and longhand notes, together with three pages of typewritten notes, the typewritten notes being numbered by the typewriting machine, .1, 2 and 3, and some memoranda written in the handwriting of the witness. Now, is there any objection to the Court taking these?

THE COURT: You mean put them all in this envelope. Did you -- The clerk will take care of them if you wish.

MR. DARROW: Very well. Mark this Exhibit 1 of this date, cross examination.

(Marked as requested by counsel.)

MR. DARROW: Now, the typewritten report of 20 pages, I presume you will keep so we will have it.

MR. CROWE: Yes, or you can introduce it in evidence if you want to.

MR. DARROW: No, I don't care about that. It contains a long account of many matters that have been proven here and if we decide we want it, we can have it?

15 MR. CROWE: If there is no objection I will have Mr. Savage keep this in the case.

MR. DARROW: What is that?

MR. CROWE: We will keep this in the case, if there is no objection.

MR. DARROW: Yes, that is what I mean.

Q Don't you know that this story of yours in reference to a friendly judge is a pure fabrication made for the purpose of intimidating this Court?

A It is not.

MR. DARROW: That is all, sir.

REDIRECT EXAMINATION

By
Mr. Crowe.

Q When is the first time I asked you what you knew about this case?

A Thursday night when you said you expected to put me on in the morning.

Q Prior to that time I had not asked you anything about the case?

A No, sir, my dealings had been with Mr. Savage.

Q And when I asked you what you knew about the case,

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there was present in the room how many people, and name them?

A Doctor Krohn, Doctor Singer, Mr. Marshall, Ettelson, Sergeant O'Malley, and I believe Sbarbaro, but I am not sure as to the two latter, and Savage.

Q Now, this report, Officer, referred to, that you made to the Chief of Police dated June 16th, consisting of twenty pages, I will ask you to state whether or not you detailed in that any conversation whatever that you had with either one of the defendants at any time?

A I did not.

Q Well, no conversation of any sort detailed that you had with any of the defendants?

A No, sir.

MR. CROWE: That is all.

RE CROSS EXAMINATION

By
Mr. Darrow.

Q You said no conversation in this report that you heard with either of these defendants?

A Yes, I had.

Q Was there any that you heard at that time?

17

A I don't understand your question.

Q Was there any conversation detailed in your report that was made in your presence and did you detail it in here?

A I don't understand the conversation.

Q Do you detail any conversation that you heard with Leopold?

A If you consider the statement as made different times to different people covering the whole thing as conversation, I heard a number of them.

Q No, you don't get my question.

A Giving the history of the case, but any specific conversation, I would answer no.

Q You say there is no specific conversation detailed in this report that you heard with the defendants?

A As conversation, no. That was just a resume of all the incidents, --

Q You called for this report in your examination here, didn't you.

A Yes, sir.

Q And you said that unless it was contained in this report there was no typewritten memoranda?

A I said it may be contained in that report.

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Q And you called for it, and examined it?

A Yes, sir, that is correct.

Q And it was not there?

A No, sir.

Q On page 4 do you not detail a conversation with Leopold at the LaSalle Hotel? You will find the place on the page preceding it, on the top of the page.

A That is not a conversation he had with me --

Q That is not the question I asked you.

A Yes, sir.

Q You do detail a conversation that you heard?

A Yes, sir.

MR. DARROW: That is all.

MR. CROWE: That is all.

(Witness excused)

THE COURT: Have you got the photographer here?

MR. SAVAGE: Mr. Barnes.

MR. CROWE: Call Mr. Barnes.

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THE COURT: What do you want to do with this Defendant's Exhibit 1?

MR. CROWE: Seal it if you want.

THE COURT: What do you want done with this, Mr. Darrow?

MR. CROWE: Seal it.

MR. DARROW: Yes. I take it the Court might take it.

THE COURT: I will impound it.

MR. DARROW: Yes, that will be all right.

THE COURT: Impound it, Mr. Clerk, and see that it is kept in a safe place, and give it to me Monday.

W I L L I A M F. B A R N E S,

called as a witness on behalf of the People, after having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By

Mr. Savage.

Q State your name please?

A William F. Barnes.

Q Your address, Mr. Barnes?

A 24 South Central Avenue.

Q Chicago?

20

A Chicago, Yes.

Q And your business?

A Chief clerk in the Assistant General Auditor's office,
Pullman Company.

THE COURT: Speak loud so all the men can hear you. Chief
Clerk?

THE WITNESS: Chief Clerk in the Assistant General
Auditor's office of the Pullman Company.

MR. SAVAGE: It will be all right to lead on, Mr. Darrow?

MR. DARROW: Oh, yes, certainly.

MR. SAVAGE: I will ask you, Mr. Barnes, if you made an
investigation after talking to Sergeant Johnson of the
State's Attorney's office pertaining to a train in which
car Number 507, Quaarion, was on, on May 23rd, 1924,
and which left the Illinois Central depot about three
A. M., -- three P.M., standard time?

A I made an investigation you mean as to --

Q As to that particular train?

A Yes, I know she left there and we had that car on the
train.

THE COURT: Please speak louder so we can all get it.
Just face out that way toward the post, and we will all

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be able to hear you.

THE WITNESS: I made an investigation as to this particular car being on that train and know this car was on that train.

MR. SAVAGE: Now, I will ask you, Mr. Barnes, if you were asked to check up any particular seat in that car, referring to seat number 4 in car Number 507.

A Yes, I was requested to check up on that particular figure.

Q To find out whether or not the original Pullman car ticket that was sold on that date was returned to the Pullman Company?

A Yes, sir.

Q Will you just tell his Honor what the examination is, where a ticket is purchased at a depot and how it is returned, just explain to his Honor, if you will, Mr. Barnes, please?

A The ticket, of course, is purchased from the ticket agent, and passenger obtains the same and presents it at the train, so as to get permission to get on the train, and later on in some cases it is taken up on the train, in others at the depot, that is outside of the railing of the depot, but on this particular occasion it

was to be taken up on the train.

Q And are those original tickets that are sold at the depot finally returned to the files of the Pullman Company after they are cancelled by the conductor?

A After the conductor picks them up he turns them with in/what we call a diagram to one of our cashiers who in turn sends the tickets and diagram and also the cash collected into the general office.

Q I will ask you to look at the diagram or chart as you call it, pertaining to car 507, Quaarion, of May 2nd, 1924, and state to his Honor whether or not from the records you have the original of seat number 4 in car 507 was ever returned to the Pullman Company offices? Just explain to his Honor how you checked that, Mr. Barnes?

A Well, this ticket here is a ticket reading from Chicago to Michigan City, Indiana. The number is 3081. That ticket number appears on the ticket agent's office diagram, seat 4, and there is no ticket on this diagram, that is no ticket shown as having been sent with this diagram of Chicago to Michigan City. That particular ticket 3081 I know from my own investigation has not yet reached our files in the ordinary course of

23

business.

Q Mr. Barnes, how long does it take for this ticket to reach your files in the ordinary course of business?

A Well, in this particular case the train left Chicago on May 22nd and on May 26th it would have been in our files.

Q And the other tickets on this train referred to in that particular car, 507, were returned to your office?

A Yes, sir, there is some of them right here.

Q And the particular seat, No. 4 in car 508, was not returned to date, is that right, Mr. Barnes?

A Yes, sir.

Q And this ticket No. 3081, marked People's Exhibit No. 16 for identification is a duplicate retained by the agent when he sells the original, is that right?

A Yes, in order that he may make his accounting.

MR. SAVAGE: If the Court please, at this time I desire to offer in evidence the duplicate ticket in car 507, seat number 4, as People's Exhibit Number 23.

THE COURT: Any objection?

MR. DARROW: No.

THE COURT: It may go in.

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MR. SAVAGE: And the chart, your Honor, of the entire train of that day.

THE COURT: It may go in.

MR. SAVAGE: And also the tickets.

THE COURT: You may put them all in one envelope and they may go in altogether.

MR. SAVAGE: All right.

(Marked as requested by counsel.)

MR. SAVAGE: Cross examine.

MR. B. BACHRACH: No cross examination.

THE COURT: That is all.

(Witness excused)

MR. CROWE: Now, have you got the photographer here.

MR. SAVAGE: Yes.

MR. CROWE: What is his name?

MR. B. BACHRACH: I thought Mr. Crowe, you asked --

MR. CROWE: I just want to put him on for a minute. I would like to have the record show the names of the two men. It won't take any longer to get their names in than it will to argue about it.

THE COURT: All right. Get them in. Photographer Yates.

MR. CROWE: Are they both together?

25

E D G A R R. Y A T E S,

called as a witness on behalf of the People, having been first duly sworn, was examined and testified as follows :

DIRECT EXAMINATION

By

Mr. Crowe.

Q What is your name?

A Edgar R. Yates.

THE COURT: Oh, no, talk up louder, please.

THE WITNESS: Edgar R. Yates.

THE COURT: Edgar R. Yates.

MR. CROWE: Y-a-t-e-s?

THE WITNESS: Yes.

THE COURT: Place of business?

THE WITNESS: 625 South Clark Street, Bureau of Identification.

MR. CROWE: You are a photographer, are you?

A Yes, sir.

Q And do you know a man named Ralph Moore?

A Yes, sir.

Q And he is also a photographer employed by the Police Department?

A Yes, sir.

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Q And together he and you took a number of pictures in reference to the Franks case and all of those -- I have those pictures in front of you?

A Yes, sir.

Q I will call your attention -- First I will name them and then I will ask you at the conclusion as to whether these are the pictures or not.

A Those pictures are Mr. Moore's, the first ones.

THE COURT: Talk up so we can hear you.

THE WITNESS: Mr. Moore took the pictures that he has on top.

THE COURT: Do you know whether or not they are pictures that were taken by the Bureau of Identification, the Police Department?

THE WITNESS: I know they were, yes.

MR. CROWE: Some taken by you and some by Mr. Moore?

A Yes.

MR. CROWE: Number 1, if your Honor please, I desire to introduce, being a view of the culvert where the body was found and mark it People's Exhibit 54.

(Marked as requested by counsel.)

MR. CROWE: Number 2, is a view looking north 25 feet east of the culvert.

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MR. SMITH: Are you marking them now? Mark Number 1,54.

MR. SAVAGE: Mark it 1 as of this date, because they are already marked 1 and so on.

MR. SMITH: No, the last one is 55.

(Marked as requested by counsel.)

MR. CROWE: Number 3 is the view looking west of the culvert. Mark that in the same manner, People's Exhibit 56.

(Marked as requested by counsel.)

MR. CROWE: Number 4 is the view looking east showing the culvert on the west side of the Panhandle Railroad track, 57.

(Marked as requested by counsel.)

MR. CROWE: Number 5, is the view showing, looking southwest from 528 feet north of the wooden bridge, 58.

(Marked as requested by counsel.)

MR. CROWE: Number 6 is the view looking south from the road 528 feet of the wooden bridge, 59.

(Marked as requested by counsel.)

MR. CROWE: Number 7 is the view looking south on dirt road 400 feet north of railroad crossing, 60.

(Marked as requested by counsel.)

MR. CROWE: That is the spot, if your Honor will recollect, that Mrs. Smith testified to.

THE COURT: Yes.

MR. CROWE: Eight. Number 8 is a view looking northwest 200 feet south of 108th Street, showing entrance between Avenue E and F, 61.

(Marked as requested by counsel.)

MR. CROWE: Number 9 is a view looking northeast on the old Michigan City road, 62.

(Marked as requested by counsel.)

MR. CROWE: Number 10 is a view looking east on the south side of the old Michigan City road, 63.

(Marked as requested by counsel.)

MR. CROWE: Number 11 is a view looking east on the old Michigan City road, 550 feet west of Forsythe Avenue, 64.

(Marked as requested by counsel.)

MR. CROWE: Number 12 is a view showing the south corner of 15th Avenue and Calumet Avenue, Hammond, Indiana, 65.

(Marked as requested by counsel.)

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MR. CROWE: No. 13 is a view showing Bournes' pharmacy and northeast corner of Sibley Street and Calumet Avenue. 66.

(Marked as requested by counsel.)

MR. CROWE: Number 14 is the view looking east from between main line Illinois Central Railroad tracks showing Sherman Manufacturing Company, 74th Street and Kimbark Avenue, 67.

(Marked as requested by counsel.)

MR. CROWE: Number 15 is a view looking northeast from the I C Railroad tracks showing 74th Street, 68.

(Marked as requested by counsel.)

MR. CROWE: Number 16 is a view looking east showing Walgreen's Drug Company's store, southeast corner of 67th and Stony Island Avenue, 69.

(Marked as requested by counsel.)

MR. CROWE: Number 17 is a view looking southeast in Walgreen & Company's drug store, southeast corner of 67th and Stony Island Avenue, Number 70.

(Marked as requested by counsel.)

MR. CROWE: Number 18 is a view looking southeast showing W. R. Young's Drug Store, southeast corner of 68th and

30 Stony Island Avenue, 71.

(Marked as requested by counsel.)

MR. CROWE: Number 19 is a view looking northwest in W. R. Young's Drug store, southeast corner of 68th Street and Stony Island Avenue, 72.

(Marked as requested by counsel.)

MR. CROWE: Number 20 is a view showing the northeast foot of 73rd and Lake Michigan, 73.

(Marked as requested by counsel.)

MR. CROWE: That is where the robe was burned. You can see the charred stump of a tree there.

Number 21 is a view looking southeast showing the playgrounds at the southeast corner of 49th and Drexel Boulevard, 74.

(Marked as requested by counsel.)

MR. CROWE: Number 22 is a view looking southwest from in front of 4822 Ellis Avenue, 75.

(Marked as requested by counsel.)

MR. CROWE: Number 23 is a view looking northeast from in front of 1031 East 48th Street, 76.

(Marked as requested by counsel.)

MR. CROWE: Number 24 is a view looking east in Walgreen's

31

Drug Store -- Drug Company's store, 1200 East 47th Street, 77.

(Marked as requested by counsel.)

MR. CROWE: 25 is a view looking northeast showing Walgreen's Drug Company's store at the northeast corner of 47th and Woodlawn Avenue, 78.

(Marked as requested by counsel.)

MR. CROWE: Number 26 is view looking southwest showing Van de Bogerr & Ross' Drug Store on southwest corner of 63rd and Blackstone Avenue, 79.

(Marked as requested by counsel.)

MR. CROWE: Number 27 is the view looking southeast showing east side of bridge over lagoon, Jackson Park, 80.

(Marked as requested by counsel.)

MR. CROWE: Number 28 is a view looking southwest showing east side of bridge over Lagoon at Jackson Park, 81.

(Marked as requested by counsel.)

MR. CROWE: There is one of those where the typewriter was found and the evidence later will show the letters from the typewriter were found, 82.

(Marked as requested by counsel.)

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MR. CROWE: Number 29 is view looking north in Stranberg's Store, 10 54 East 47th Street, 83.

(Marked as requested by counsel.)

MR. CROWE: Number 30 is view looking north showing front of Stranberg's store, 84.

(Marked as requested by counsel.)

MR. CROWE: Number 31 is view looking east showing front of Harvard School, 4731 Ellis Avenue, 85.

(Marked as requested by counsel.)

MR. CROWE: Number 32 is view looking northwest showing rear of the Harvard School and playground, 86.

(Marked as requested by counsel.)

MR. CROWE: Number 33 is view looking northwest in Adler's Drug Store, 445 Cottage Grove Avenue, 87.

(Marked as requested by counsel.)

MR. CROWE: Number 34 is view looking west showing Adler's Drug Store on northwest corner of 45th and Cottage Grove Avenue, 88.

(Marked as requested by counsel.)

MR. CROWE: Number 35 is view looking west showing front of Harry L. Porter's hardware store, at 4236 Cottage Grove Avenue, 89.

(Marked as requested by counsel.)

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MR. CROWE: Number 36 is the view of the interior of the hardware store, 90.

(Marked as requested by counsel.)

MR. CROWE: Number 37 is Locke Brothers' Drug Store, at 4256 Cottage Grove Avenue, 91.

(Marked as requested by counsel.)

MR. CROWE: Number 38 is view of Kramer's Restaurant, 92.

(Marked as requested by counsel.)

MR. CROWE: Number 39 is the interior of Kramer's Restaurant, 93.

(Marked as requested by counsel.)

MR. CROWE: Number 40 is the office of the Rent-A-Car Company, 94.

(Marked as requested by counsel.)

MR. CROWE: Number 41 is the garage of the Rent-A-Car Company, 95.

(Marked as requested by counsel.)

MR. CROWE: Number 42 is the interior of Barish's store at 1352 Wabash Avenue, 96.

(Marked as requested by counsel.)

MR. CROWE: Number 43 is picture of the exterior of the store, 97.

34

(Marked as requested by counsel.)

MR. CROWE: Number 46 is a view of the premises at 4840 Greenwood Avenue where the chisel was found, 98.

(Marked as requested by counsel.)

MR. CROWE: Number 47 is the picture of the Rent-A-Car, 99.

(Marked as requested by counsel.)

MR. CROWE: Number 48 is the picture of the red Willys-Knight. No, that is another picture of the Rent-A-Car, and 49 also, 100.

(Marked as requested by counsel.)

MR. CROWE: Now, there are two here that won't be of any use, 44 and 45 and I won't offer those.

Q Mr. Witness, you have watched the photos that I have called off and those are taken either by yourself or Mr. Moore?

A Yes, sir.

Q And the record will also further show that they have been examined by counsel for the defense and there is no objection to their going in evidence?

MR. B. BACHRACH: That is correct.

THE COURT: What are the numbers?

35

MR. SMITH: Up to 100.

THE COURT: 54 to 100?

MR. SMITH: Yes, inclusive.

MR. CROWE: Now, if your Honor please, it is 12 o'clock, and the next witness I have to put on will take some time probably.

THE COURT: We will suspend now until Monday at ten o'clock. All the witnesses that are in this case return Monday at ten o'clock sharp.

(Whereupon an adjournment was taken until Monday, July 28th, A. D. 1924, at the hour of ten o'clock A. M.)

its case.

THE COURT: We will suspend now until tomorrow morning at ten o'clock.

(Whereupon an adjournment was taken until ten o'clock A. M., Wednesday, July 30th, A. D. 1934.)

1r

Monday, July 23th, 1924.

10:00 o'clock A.M.

Court convened, pursuant to adjournment heretofore taken, Monday, July 23th, 1924 at 10:00 o'clock A.M.

Present: Same as before.

MR. CROWE: Now if your Honor please, I desire to recall Sergeant Gortland and ask him one or two questions. I have been over his cross examination and there were a number of documents referred to, and it is impossible from reading the record to distinguish what particular document was referred to from time to time. In other words "this" and "that", "these", "those" and "it", appear in the record, and I want to straighten the record on that, your honor.

MR. BACHRACH: No objection.

THE COURT: Very well.

J A M E S J. G O R T L A N D,

was recalled as a witness on behalf of the prosecution and being further examined in chief by Mr. Crowe testified as follows:

Q Your name is what?

A James J. Gortland.

Q Now, you are the same James J. Gortland who testified in this case Saturday of last week?

A Yes sir.

Q And I believe there were five different units to the memoranda that you handed to counsel?

A There were.

Q Have you got your book with you? A Yes (handing book to counsel).

Q I will show you a loose leaf book with a leather cover, and ask you if that is one of the exhibits (handing document to witness)?

A It is.

Q When did you start to make the memoranda in this

loose leaf leather book?

A About a week after June 1st.

MR. CROWE: I will continue and ask a leading question, if there is no objection?

MR. BACHRACH: No objection.

MR. CROWE: Q This has been a continuous history, as you have gone along?

A It has.

MR. CROWE: Mark that exhibit one.

Q Now, the next one that you made was what?

A The typewritten pages.

Q And when did you make those?

A About the same time.

Q I will show you three typewritten pages, on the first one of which is "May 29th" at the top and on the second is "No.2" and on the third is "No.3", and you made those when?

A About a week after June 1st .

MR. CROWE: I will ask that this be marked Exhibit 2.

MR. DARROW: Excuse, me. Bob, I was delayed a minute. Are these some new ones?

MR. CROWE: No, no. The point I am getting at is, the book is 1, this is 2, and the other is 3.

MR. DARROW: All right.

MR. CROWE: I will ask that this be marked Exhibit 2.

Q Now, the next thing that you recorded was what, or that you composed?

A The report to the General Superintendent which was dated June 16th.

Q Have you got a copy here?

A No, I have not.

Q And when did you start to make this report to the General Superintendent?

A On June 16th.

MR. CROWE: Well, I will ask that that be marked Exhibit 3.

Q Then I will show you -- one, two, three, four, five, six -- I will show you some sheets of paper, in shorthand and in longhand, that have already been marked 1, 2, 3, 4, 5, and 6 by Mr. Darrow, and ask you when you made that?

MR. DARROW: Why he has already testified on that.

MR. CROWE: You have it in the record, Mr. Darrow.

Now why can't I have it cleared up?

MR. DARBOW: Go ahead.

A I made these on July 24th.

MR. DARBOW: What was the answer?

A I made these on July 24th.

MR. CROWE: I will ask that they be marked -- what is the last number?

MR. SAVAGE: Three.

MR. CROWE: Three is the last. I will have the six sheets marked as one exhibit, number 4.

Q Now, I will show you a piece of scrap paper that has some pencil memoranda on it. When was that made?

A At the same time.

Q At the same time as what?

A July 24th, Thursday.

Q July 24th?

A Yes.

MR. CROWE: I will ask to have that marked Exhibit 5.

THE COURT: Let it be marked.

MR. CROWE: That is all.

CROSS EXAMINATION

BY MR. DARROW.

MR. CROWE: We had better give those back to the clerk when we are through with them?

MR. DARROW: Yes, but I want to use them for a little bit of cross examination.

MR. CROWE: All right.

MR. DARROW: Q Mr. Witness, you now say -- what exhibit did you make these?

MR. CROWE: Exhibit 4. The six pieces of paper are marked one exhibit number, No.4.

MR. DARROW: Q You now say that exhibit 3, which consists of six pieces of shorthand, together with some longhand in it, and which have been further identified by the marks I put on them, one, two, three, four, five and six, were written on July 26th?

A July 24.

Q July 24th?

A Thursday.

MR. CROWE: Thursday of last week.

MR. DARROW: Q What day of the week was that?

A Thursday.

Q Where did you write them?

A At my home.

Q What time of day?

A It was in the evening, at night around, I would say, ten o'clock.

Q Around ten o'clock at night?

A Yes sir.

Q Around Thursday?

A Yes sir.

Q All at the same time?

A Yes sir.

Q Didn't you testify the other day, on my cross examination, that you didn't know when they were written?

A That I didn't know when those were written?

Q Yes.

A I did not.

Q And didn't you also testify that they were written at different times?

A I was confused from the amount of --

Q I will give you a chance to explain.

A Allright.

Q But isn't that what you said?

A What was the question?

Q That they were written at different times, referring to these six sheets -- I will give you a chance to explain it?

A I don't know whether you had those sheets in mind or not.

Q You don't know whether you testified that these six sheets were written at different times?

A Whether those were the sheets or not. I testified to the fact that different sheets were written at different times, yes sir.

Q Well, didn't you testify that these six sheets which are now marked Exhibit 3 were written at different times?

MR. CROWE: Exhibit 4.

MR. DARROW: Exhibit 4, excuse me. Marked Exhibit 4, six sheets?

A I think I did.

Q And were you mistaken?

A I was mistaken.

Q And you now say, and are positive of it, that they were written on Thursday, the 24th?

A July 24th, yes sir.

Q That is all.

MR. DARROW: I would like, with your consent and that of the Court, to have these put in a separate envelop and have them impounded.

MR. CROWE: All right.

MR. DARROW: There is just one other question.

Q Did you say that Thomas Salmon and his wife were relatives of yours?

A No sir, they are not.

Q How long have they been your friends?

THE COURT Who is that?

MR. DARROW: Thomas Salmon and his wife?

A About three years.

Q And did they formerly live in Chicago?

A No sir.

Q Did you formerly live in Bloomington?

A I did not.

Q What is his business? A Superintendent of the Post Office.

Q What is it? A He is superintendent of the Post Office.

Q And what were the names you mentioned in Fairbury

Illinois?

10r

A I am not so well acquainted with the names here.
I think Grant McDowell was one of them.

Q Do you think, or know?

A Grant McDowell.

Q Well, did you say you think he was? I might not have understood you, and that is why I am asking you again. Do you say you think he was, or was?

A I believe he was one, Yes sir. That is the only name I recall there. I don't recall the others.

Q How long have you known Grant McDowell?

A Well, I think I met him three years ago on one occasion, and then just met him again on -- what was the Sunday before this trial started? July 20th I think it was.

Q What is his business?

A Banker.

Q He is a banker at Fairbury?

A Yes sir.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. CROWE.

Q Exhibit 4 that Mr. Darrow has in his hand, what is

that?

THE COURT: Those six sheets that were marked the other day by Mr. Darrow from one to six.

MR. CROWE: It is shorthand and some longhand?

A An outline of my testimony as I prepared it on Thursday, July 24th.

MR. CROWE: All right, that is all.

RE-CROSS EXAMINATION

BY MR. DARROW.

Q You do not know now know of any other document you have that contains any reference to this conversation?

A No sir.

MR. DARROW: That is all,

(Witness excused).

L A W R E N C E A . C U N E O ,

a witness called on behalf of the prosecution, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CROWE.

MR. CROWE: Do you want these, Mr. Darrow?

MR. DARROW: No, I don't believe I care for those, because I can read them. They have been put in evidence haven't they?

MR. CROWE: No.

MR. DARROW: Well, they are marked for identification. I suppose we might as well let them go in evidence.

MR. CROWE: I will tell you, when you come back I will introduce these.

MR. DARROW: Allright.

MR. CROWE: Q What is your name?

A Lawrence A. Cuneo.

Q You are an employee of the State's Attorney's office.

A Yes sir.

Q Where do you live, Mr. Cuneo?

A 2824 Sheridan

dan Road.

Q Were you over in the Hotel LaSalle on the Thursday

before Decoration Day?

A I was.

Q That is the time that Leopold and Loeb and myself were over there?

A It is.

Q Did you see the defendant, Leopold, make any writings?

A Yes sir.

Q And what if anything did you do with it?

A When he finished I folded them up in that position and put them on the night stand.

MR. DARROW: Excuse me Bob. Did you say, make any writing?

MR. CROWE: Yes.

Q Is that in your handwriting (indicating)?

A No sir.

Q Well I will show you these sheets, 1, 2 --

MR. DARROW: I have asked several times to have Dr. Krohn and Dr. Singer find other seats. It has been promised, and I want it done.

MR. CROWE: Let them sit where Mr. Marshall and Mr. Ettelson are sitting.

MR. DARROW: Well, I don't mind their being there of course.

MR. CROWE: I know, but if you merely want the seats, I will give you those two seats, and let the Doctors sit where --

MR. DARROW: I don't care, Doctor, we want these seats, that is all I am after.

MR. CROWE: Well, take your seats, Doctor, and put them overthere alongside of Dr. Hall.

THE COURT: Put them anywhere over there, just the other side.

MR. DARROW: I am sorry to have to bother about it.

THE COURT: That is all right. The lawyers are entitled to the room here.

MR. DARROW: I am sorry to bother you.

MR. CROWE: Are you all set now?

THE COURT: Go ahead.

MR. CROWE: Q I will show you nine sheets of paper of the Hotel LaSalle, with writings on in ink, and I will ask you are those the writings made by the Defendant, Leopold, in the LaSalle Hotel on the day prior to Decoration Day of this year?

A Yes sir, these are the ones.

Q And the word "Leopold" in pencil is not in his

handwriting?

A No sir.

Q I will show you eight smaller sheets of the LaSalle Hotel, with some writings on, and I will ask you who made those writings?

A Mr. Leopold.

Q And another large sheet with some writings on and ask you who made that?

A Mr. Leopold.

Q And they were made in the LaSalle Hotel on Thursday before Decoration Day?

A They were.

MR. CROWE: Do you want to look at them?

MR. BACHRACH: I know what they are.

MR. CROWE: There are ten large sheets and eight smaller sheets. I will introduce those in evidence as one exhibit and ask that they be marked as "People's Exhibit A of this date", A1, A2, and A3, down to A 18, each sheet being marked.

MR. BACHRACH: The purpose of offering them is to get a basis for comparison of handwriting?

MR. CROWE: Yes, comparison.

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THE COURT: All marked as one exhibit?

MR. CROWE: Yes.

Q Now I will show you another piece of paper and ask you whether you ever saw that before (handing paper to witness)?

A No, I didnot.

Q Now I will showyou -- are there only two? I will show you three envelopes and two sheets of papers, State's Attorney's envelopes and State's Attorney's stationery, and ask you if you ever saw those before?

A Yes sir, I did.

Q And they were made when? A On the Sunday following that Thursday.

Q And made in the State's Attorney's office?

A yes sir.

Q By the Defendant Leopold?

A Yes sir.

MR. CROWE: I will ask that these five exhibits be introduced in evidence and marked People's Exhibit B of this date, B-1, 2, 3, 4, and 5. Now, will you give me that first exhibit, 18 or 19 pages? Who has got the exhibit with the 18 or 19 pages?

MR. SAVAGE: Here it is.

MR. CROWE: Q On Sunday, at the time the defendant, Leopold, was making the eight specimens of handwriting that have just been introduced in evidence, was there anything said by him about his previous specimens made Thursday in the LaSalle Hotel?

A Yes, there was.

Q What did he say?

A He said that on his first few specimens at the LaSalle he had made a slip in a couple of the letters. One of them was making a characteristic "y" and would have torn them up if he thought he could have gotten away with it.

Q Now, was anything said to him at that time by any person about the slip?

A You said that it would not have done him any good as the letters had already been circled, that is the "y" and the "m" were the two letters that had been picked out and circles drawn around them.

Q I will show you a paper on which appears to have been written first "Mort", then "Morton D. Ballard, Peoria, Illinois, 202 Elm Street", and ask you whether you ever saw that paper before?

A Yes, I did.

MR. CROWE: Have Mr. Tyrrell come in. Just a minute. Is Shoemaker here? I have one or two others that Mr. Cuneo didn't remember and that I want to ask about. There are just a couple they do not remember about, and I want to ask Shoemaker.

W I L L I A M S H O E M A C H E R,
a witness called on behalf of the prosecution, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CROWE.

Q What is your name please?

A William Shoemaker.

Q You are a captain of Police, and have worked on this case?

A yes sir.

Q Were you present in the State's Attorney's Office on Saturday, May 31st, following Decoration Day, when the two defendants, Loeb and Leopold, were present?

A Yes sir.

Q And the stenographers were reading something to them?

A Yes sir.

Q Did you see the defendant Leopold make any notes?

A Yes sir.

Q I will show you a paper and ask you whether those are the notes he made at that time?

A Yes sir.

MR. CROWE: I will ask that that be introduced in evidence and marked People's Exhibit 102.

MR. DARROW: Is that what you have been questioning the other witness about?

MR. CROWE: Yes.

MR. BACHRACH: No.

MR. DARROW: Oh, that is another one?

MR. CROWE: Those are the two things that Cuneo didn't remember about.

MR. BACHRACH: Well, you are not saying anything about the back of this? There is something on the back.

MR. CROWE: I didn't see that. But that is merely -- I can state what that is.

MR. BACHRACH: Well, you are not drawing his attention to that at all?

MR. CROWE: No. I can clear that up. That is a memorandum made by Larry Cuneo as to what the paper was. If

I had shown him that he could have testified to it, but he had forgotten about it. I didn't see that. I will tear that off.

MR. BACHRACH; All right.

MR. CROWE: Q Were you in there Sunday afternoon?

A Yes sir.

Q And did you see Loeb make some notes Sunday afternoon?

A Yes sir.

Q I will show you those and ask you whether those are the notes that Loeb made at that time?

A Yes sir.

MR. CROWE: I will ask that that be introduced in evidence and marked --

MR. BACHRACH: Now which are you offering?

MR. CROWE: The one on the front. I will tear this off.

MR. BACHRACH: All right.

MR. CROWE: It was made by the reporter for the purpose of identifying what the thing was. I ask that this be marked People's Exhibit 103.

THE COURT: It may be marked.

MR. CROWE: Q On the morning of the 31st when the

22r

stenographer was reading some statements, did you see Loeb make some notes at that time?

A Yes sir.

Q I will show you these notes and ask you whether those are the ones he made? Is there anything on the paper that identifies it?

A Yes.

MR. BACHRACH: I didn't hear what he said?

MR. CROWE: "Yes".

THE COURT: He said he did.

MR. CROWE: Now, that has got the same thing on the back of that?

MR. BACHRACH: Why don't you mark the part that you are introducing in evidence?

MR. CROWE: I will. I will mark the first page of that. The others I have not been able to tear off.

THE COURT: It only goes to me anyhow. So you want this stricken out?

MR. CROWE: Yes.

THE COURT: Very well.

MR. CROWE: I will now present in evidence a sheet of paper with some pencil notes on one side, and on the

other, in lead pencil, written "Richard Loeb corrections" etc., that were made by Mr. Cuneo for the purpose of identification, for the purpose of identifying the notes. The side with the notes on and the numbers I will offer in evidence.

MR. BACHRACH: No objection.

THE COURT: It may go in.

MR. CROWE: As People's Exhibit 104.

MR. CROWE: That is all.

MR. BACHRACH: No cross examination.

MR. CROWE: I would like to have the privilege of recalling the witness later, on other matters.

MR. BACHRACH: All right.

THE COURT: All right.

MR. CROWE: Now, Mr. Tyrrell. That is all, Chief.

(No cross examination and witness excused)

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J O H N F. T Y R R E L L,

a witness called on behalf of the prosecution, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CROWE.

Q What is your name, please?

A John F. Tyrrell.

Q Where do you live, Mr. Tyrrell?

A I live
in Milwaukee.

Q And what is your occupation?

A I am in charge of the policy division of the Northwestern Mutual Life Insurance Company and have made a study of documents for upwards of thirty years.

Q Now, will you go ahead and tell the extent of your studies and the number of documents that you have examined and the number of cases that you have testified in?

A I have testified in courts approximately for thirty years in various cases, in this city, in this state, in numbers of cases in Wisconsin and several States of the Union and in Canada and in New York City, the Molineaux case, the Patrick case, and the Dr. Kennedy case, those were homicide cases, the Cabot case,

the McCarthy case.

MR. DARROW: We will admit his qualifications, if it will do you any good.

THE COURT: About how many cases in all?

A Over two hundred, sir.

MR. CROWE: Q And about how many documents have you compared in the last thirty years?

A I couldn't say, Mr. Crowe. There have been a great many.

THE COURT: Oh, approximately?

A I couldn't even say that, your Honor. There have been thousands of them.

MR. CROWE: Give me the two ransom letters.

Q I will show you an envelop, a plain envelop and on it is written in typewriting, "Mr. Jacob Franks. Should anyone else find this note, please leave it alone. The letter is very important." And I will ask you whether you have ever seen that before?

A I have, in your office.

Q Can you tell ~~me~~^{upon} what kind of a typewriter that was written?

A Yes sir.

Q What typewriter was used in writing that?

A Underwood.

MR. CROWE: The document having been previously marked "People's Exhibit B" of the 24th ~~ix~~ of July, 1924.

Q I will call your attention to "People's Exhibit A" of July 24th for identification, which consists of two typewritten pages -- which consists of one typewritten page, "People's Exhibit A" of July 24th, and reads as follows:

"Dear Sir:

Proceed immediately to the back platform of the train, watch the east side of the track, have your package ready, look for the first large red brick factory situated immediately adjoining the tracks on the east, on the top of this factory is a large black water tower with the word "Champion" written on it, wait until you have completely passed the south end of the factory, count five very rapidly, and then immediately throw the package as far east as you can. Remember that this is your only chance to recover your son.

Yours truly,
George Johnson.

Q Did you see that document before?

A I did, in your office.

Q Can you tell what kind of typewriter was used in typing that?

A Yes sir, an Underwood portable.

MR. CROWE: I offer that in evidence now. Have I offered the envelope? No. People's Exhibit -- what is the next number?

MR. SMITH: 105.

MR. CROWE: The envelope People's Exhibit 105, and the letter as People's Exhibit 106. Do you want to see these?

MR. BACHRACH: No.

MR. CROWE: Or you have seen them.

Q I will call your attention to another typewritten statement consisting of two pages, which reads as follows:

"Dear Sir:

As you no doubt know by this time, your son has been kidnapped.

Allow us to assure you that he is at present well and safe. You need fear no

"physical harm for him, provided you live up carefully to the following instructions and such others as you will receive by future communications. Should you, however, disobey any of our instructions, even slightly, his death will be the penalty."

" 1. For obvious reasons, make absolutely no attempt to communicate with either the police authorities or any private agency. Should you have already communicated with the police, allow them to continue their investigations, but do not mention this letter.

2. Secure before noon today \$10,000. This money must be composed entirely of old bills of the following denominations: \$2,000 in twenty dollar bills, \$8,000 in fifty dollar bills. The money must be old.

Any attempt to include new or marked bills will render the entire venture futile.

3. The money should be placed in a large cigar box, or if this is impossible, in a heavy cardboard box, securely closed and wrapped in white paper. The wrapping paper should be

"sealed at all openings with sealing wax.

4. Have the money with you prepared as directed above and remain at home after one o'clock P.M. . See that the telephone is not in use. You will receive a further communication instructing you as to your future course.

As a final word of warning, this is an extremely commercial proposition and we are prepared to put our threat into execution should we have reasonable grounds to believe that you have committed an infraction of the above instructions.

However, should you carefully follow out our instructions to the letter we can assure you that your son will be safely returned to you within six hours of our receipt of the money.

Yours truly,

George Johnson."

Q Did you ever see these two papers before?

A Yes sir, in your office.

Q Can you tell what kind of a typewriter machine they

30r

Were written on?

A A portable Underwood, sir.

MR. CROWE: I will offer those in evidence as People's Exhibit 107 A and B.

THE COURT: They may go in.

MR. CROWE: Q Give me the writings of Leopold at the LaSalle, and also at the office?

Q I will show you -- just take these -- nine small sheets of paper, on the stationery on the LaSalle Hotel (handing papers to witness). That has some writings on it in ink --

A Printed.

Q -- printed, and ten large sheets of paper from the LaSalle Hotel that has some printing in ink on them and that have been marked "People's Exhibit A" from 1 to 20, and state whether or not you ever saw those before?

A I have, sir, at your office.

Q I will now show you an envelop, with six two-cent stamps cancelled, "Mr. Jacob Franks, 5052 Ellis Avenue, City. Special, to be claimed at Chicago, Illinois, Post Office stamp, Chicago, May 31, 1 A.M. 1924, Illinois"

in which was contained the ransom letter, which has been marked People's Exhibit 107 A and B, and ask you whether or not you ever saw that before?

A I have, sir, at your office.

Q Now I will show you three envelopes, State's Attorney's Envelopes, with some printing in ink on them and two sheets --

MR. SMITH: Is that envelop marked?

MR. CROWE: I will offer that in evidence, if the Court please, and ask that it be marked People's Exhibit 108, this envelope here. On the back, I would mark that.

(Which said envelope was marked "People's Exhibit 108").

Q Now, directing your attention to three envelopes and the two pieces of paper, State's Attorney's ~~stationery~~ stationery, with some printing in ink on them, did you ever see those before?

A I have, at your office.

Q They are "People's Exhibit B, 1, 2, 3, 4, and 5". Make that 1, 2, 3, 4 and 5 of this date. I will ask that they be introduced in evidence now and be marked

People's Exhibit -- what is the number?

MR. SMITH: The last one is 108.

MR. CROWE: And ask that they be marked People's Exhibit 109, A, B, C, D, E of this date.

(So marked)

MR. CROWE: Now where is the "Morton D. Ballard"?

Q I will show you -- have you examined, Professor --

A Not Professor.

Q -- or Mr. Tyrrell, have you examined "People's Exhibit 108" and compared -- that being the envelope -- and compared that with People's Exhibit -- what is the Hotel La Salle marked?

MR. SAVAGE: People's Exhibit A, 1 to 20.

MR. CROWE: -- "People's Exhibit A," 1 to 20 being the samples of handwriting or printing made by the defendant, Leopold, in the LaSalle Hotel?

A I have.

Q Have you examined and compared People's Exhibit --

MR. SAVAGE: I suggest you let the reporter have time to mark them.

MR. CROWE: The stenographer wants time to mark these exhibits.

THE COURT: Very well.

MR. CROWE: Q Now, Mr. Tyrrell, have you examined and compared the printing on the envelop "People's Exhibit 108" with the printing on the three envelopes State's Attorney's envelopes, and the two sheets of State's Attorney's Stationery, which have been marked "People's Exhibit 109, A, B, C, D, E" -- make one of those "E" instead of "D" -- you have got two ~~sets~~ "D's" ~~28-~~ -- and also those on the letterhead of the LaSalle Hotel which have been marked People's Exhibit A, 1 to 20, inclusive?

A I have.

Q Have you an opinion, from such an examination, as to whose handwriting People's Exhibit 108 is?

A I have.

Q And what is your opinion?

A The writers are identical.

Q In other words, the same man who made the writings, in the La Salle Hotel, on their stationery and also in the State's Attorney's office, on the State's Attorney's stationery, as here shown, is the same person who printed "Mr. Jacob Franks, 5052 Ellis Avenue, City, Special", on the envelop that contained the ransom letter?

A yes sir.

MR. CROWE: Now, have you got Leopold's card?

Q I will show you a card, a registration card of the Morrison Hotel, which has been introduced heretofore as -- there doesn't seem to be any identification mark on this. I will now introduce it in evidence and ask that it be marked People's Exhibit 110, it being the card used by the Morrison Hotel for the purpose of registration --

MR. DARROW: Let me see, what is that?

MR. CROWE: -- and the name "Morton D. Ballard, Peoria, Illinois, 302 Elm Street, " appearing thereon.

MR. DARROW: You are sure you are right, are you, professor?

MR. CROWE: Q Have you compared People's Exhibit 110 with the slip I now offer in evidence, that has been referred to and testified to concerning by either Cuneo or Shoemaker, with the name "Morton D. Ballard, Peoria, Illinois, 302 Elm Street", on it, as having been made by Loeb in the State's Attorney's office?

MR. CROWE: Mark that please, Exhibit ~~110~~ 111.

Q Have you compared People's Exhibit 110 with people's Exhibit 111?

A I have.

Q And have you an opinion as to who wrote the two exhibits?

A I have.

Q What is your opinion? A That is is the handwriting of Loeb.

MR. CROWE: Now what else have you got?

THE COURT: It may go in.

MR. CROWE: Well now there are some things here, your Honor, that we want to get as exhibits, and while we are getting them I would suggest that you tell to the Court what tests you made in order to come to this conclusion, and if you have any --

MR. DARROW: We haven't any doubt but what his judgment is all right on it, unless you want to do that. We know he is a good expert.

MR. CROWE: Well, show the court the -- all right, go ahead and show the court just what you did?

THE WITNESS: With respect to the identity of the typewriter, your Honor, I have here an exhibit made from

photographs of the standard writing, a sheet of typewriting found in the school effects of Leopold as standard specimens, also from the ransom letter and from the train letter; I have cut out similar words and letters from each of these and have arranged them in juxtaposition, the better to show the similarity. They consist of the words "to", the word "of", the word "this", and other words here shown, the object being to bring together similar peculiarities existing in the types of all three exhibits.

Your Honor will observe that the letter "t" prints very heavily at the top and very light at the bottom, that the letter "o" is a very heavily printed letter, heavier at the top, with the serif, the lower right serif, in the character "x", is very faint, the rest of the character is strong; that the letters "m" are out of alignment, they print uphill. These taken in combination, your Honor, are very strong evidence of the identity of the machine. We determine the make of machine from the character of the types, the identity of the particular machine through the peculiarities of those types, as found in both examples.

MR. SAVAGE: 110.

THE WITNESS: 110, and the standard is 111.

MR. SAVAGE: Wait until we get it straightened out.
That is 110, Morrison Hotel.

THE WITNESS: Yes sir.

MR. SAVAGE: This specimen is 111.

THE WITNESS: The Morrison Hotel registration card, known as Exhibit 110, is in the handwriting of Loeb, as demonstrated by comparison with his request writing of the subject matter on that card known as Exhibit 111. The cut-out handed the Court is in the nature of a comparison of the peculiarities of the two writings. They are identical. There is no attempt at any disguise in the hotel card, disguise as to the handwriting.

MR. CROWE: Well now, will you get the library card with the signature "R. A. Loeb" on it?

THE WITNESS: That is a photographic copy, that is my original.

MR. DARROW: Your Honor, we are perfectly satisfied with conclusions here. If he will just state the fact, why we are perfectly satisfied.

THE COURT: All right.

MR. DARROW: I know this expert. He knows his business.

THE COURT: The defense is satisfied that proper comparison was made.

MR. CROWE: Well we wont go any further. We are not getting the exhibits your Honor. We have a mass of papers here and we don't want the stenographer to get confused to marking them and we don't want to put them back in the wrong envelopes.

THE COURT: You may put all those photographs and mark them one exhibit, all the photographic copies made by Mr. Tyrrell.

MR. CROWE: Well, ~~we~~ will you do that, Mr. ^{Tyrrell?} ~~DARROW~~

THE COURT: Put them in one envelop and mark them People's Exhibit, whatever it may be, and it will be perfectly satisfactory. There is no contest and no cross examination. I will get them all. You see there is no jury here. Put them all in one envelop.

THE WITNESS: Yes, and I will retain my original cut?

THE COURT: Sure. Keep the original and put in ours, those that you have made for the Court and State's Attorney, put them in one envelop.

MR. CROWE: If there is no objection we will introduce them as one exhibit.

THE COURT: Do you want to see them?

MR. DARROW: Not right now. I might in a few minutes. So keep the documents which you are trying to prove separate from the ones you have identified, if you don't mind, so I can get them.

MR. CROWE: I introduce 16 photographs of various writings and ask that they be marked as one exhibit, 112. Now, it is conceded that they are accurate photographs, Mr. Darrow?

MR. DARROW: Yes. Now those are the ones you wish to identify? I just distinguish between that and the samples you have.

MR. CROWE: I am just going to call his attention to the exhibits and ask him if he made the comparisons.

MR. DARROW: Yes.

MR. CROWE: Have you got these marked now? Mark them all, and then we have got it in shape.

Give me the checks of Loeb, the cancelled checks from the Hyde Park Bank.

Q Is there anything you want to say, professor -- or

Mr. Tyrrell, about People's Exhibit ~~105~~ 105?

A Yes sir. This is written on an Underwood machine, but not on a portable Underwood.

Q And the other?

A The contents was on a portable.

THE COURT: The envelop?

A Yes sir, the envelop.

MR. CROWE: Both of them on an Underwood, but one of them was not a portable.

Q I will direct your attention to a library card, which has heretofore been exhibited, but has not been introduced, that was found in one of the books in the satchel brought in by Loeb, into the Morrison Hotel, and I now ask that it be marked People's Exhibit--

THE COURT: 113.

MR. CROWE: People's Exhibit 113, and I will direct your attention to the signature "R.A.Loeb" there, and I will call your attention to a number of cancelled checks signed "Richard A. Loeb" on the Hyde Park Bank, and show you his signature card at the Hyde Park State Bank "Richard A. Loeb". Upon a comparison of those, Mr. Tyrrell, have you an opinion as to who wrote

"R. A. Loeb" on People's Exhibit 113?

A I have.

Q Whowrote that?

A The same hand wrote it that wrote the Bank signature card and the checks "Richard A. Loeb".

MR. CROWE: Now I will introduce the signature card from the bank as People's Exhibit --

THE COURT: 114.

MR. CROWE: As People's Exhibit 114, and the 13 cancelled checks of the Hyde Park State bank signed by "Richard A. Loeb" as People's Exhibit -- one exhibit 115. Will you pin them together? And you better let him mark the back, 115, and put them back.

THE COURT: Are you going to keep Mr. Tyrrell on the stand much longer?

MR. CROWE: Yes, quite a while, your Honor. There are so many exhibits here that it will take us some time.

THE COURT: We will take the usual ten minutes recess now.

Whereupon a short recess was here taken

by court and counsel.

1
Harvey
rels
Snyder
11:15
A V
7-28-24

(Whereupon pursuant to a short recess heretofore
taken, the following proceedings were had:)

J O H N A. T Y R R E L L,

resumed the stand for further direct examination by Mr.
Crowe.

Q I will call your attention now, Mr. Tyrrell, to
People's Exhibit Number 7, which contains a leather
card case in which is an identification card of the
Rent-A-Car people. I will direct your attention to the
signature Morton D. Ballard, on that card. Look at it.
Put that back, Joe. Now, I will direct your attention
to People's Exhibit B of the 7th of -- of the 24th of
July, 1924, and People's Exhibit C, which also contains
a leather card case and identification -- a duplicate
identification card from the Rent-A-Car people, and
call your attention to the signature of "Morton D.
Ballard" thereon?

A Yes, sir.

MR. CROWE: Now, give me all of those.

Q I will also direct your attention to the application
and reference sheet of the Rent-A-Car people signed by

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"Morton D. Ballard" and which has been marked People's Exhibit B for identification, and call your attention to the writing on the application, "Morton D. Ballard, 23; salesman, single, 203 Elm Street, Peoria, Illinois, 802 J, 15 W, Chick Mfg. Co, 7 Mos. 203 Illinois Avenue, 12, Hyde Park State Bank, Louis Mason, 1358 Wabash Avenue, Calumet 4658, Carroll F. Williams, 298 Elm Street, Peoria, 536 J, Thos. Cutter, 897 Washington Avenue" abbreviated "753 J, Carl Johnson, 1258 Lawrence, Peoria, 513 Jr."

THE WITNESS: Junior.

MR. CROWE: Junior, Jr., "Morton D. Ballard", and on the reverse side of the lease agreement a signature "Morton D. Ballard."

I will introduce this in evidence now which was People's Exhibit B for identification and ask that it be marked People's Exhibit, what number?

MR. SMITH: 115.

MR. CROWE: 115.

(Marked as requested by counsel.)

MR. CROWE: I will also call your attention to an identification card heretofore marked People's Exhibit A

3 for identification of the Rent-A-Car people that has the signature of "Morton D. Ballard", the name "Morton D. Ballard, 203 Elm Street, Peoria, 802 J, 303 Illinois Street, 15 ", salesman, 23; 5-6 1/2, 140, gray, black", and ask that that now be marked People's Exhibit 116.

(Marked as requested by counsel.)

MR. CROWE: I will also direct your attention to People's Exhibit 19, a yellow sheet of paper which is the statement made in the writing of the defendant Loeb to Captain Wolfe on the Sunday following the murder.

MR. SMITH: Is that Loeb or Leopold?

MR. CROWE: Leopold. Strike out Loeb and make it the defendant Leopold.

MP. SAVAGE: That was People's Exhibit 19.

MR. CROWE: I will direct your attention now to a -- look at it again. -- to a letter purporting to have been written by Nathan F. Leopold, Jr., and also -- Well, which has not been introduced in evidence, and which I now desire to have introduced and marked People's Exhibit 117.

(Marked as requested by counsel.)

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MR. CROWE: And also another letter on three sheets of stationery, each one of which has printed 4754 Greenwood Avenue, Chicago, Illinois, addressed to "Dear Dick" and signed on the last page as "Babe" and ask you to look at that, that being in ink. (Witness hands document to Court).

MR. CROWE: Now, I direct your attention to three -- well I better get that marked.

MR. B. BACHRACH: You are offering that in evidence?

MR. CROWE: Yes. It can be considered as read in, I won't read it.

MR. B. BACHRACH: Do you think that is necessary for your case?

MR. CROWE: I would prefer to have it in, yes, but I won't read it. If you will agree to consider it as having been read in --

MR. B. BACHRACH: If you think it is necessary for your case --

MR. CROWE: Yes. I ask to have it marked as one exhibit. Pin it together and mark it People's Exhibit 118.

(Marked as requested by counsel.)

MR. CROWE: I will now show you three pieces of paper

written in pencil, which beings "Dear Dick", and is not

5 signed -- Yes, and is signed "Eabe", and I will ask that this be marked People's Exhibit 119, as one exhibit.

(Marked as requested by counsel.)

MR. CROWE: Exhibit 118 and 119, being papers taken from the room of Nathan Leopold and Richard Loeb. The exhibit 118 being taken from Loeb's room and 119 being taken from the room of Leopold, as testified to by one of the police officers.

MR. SAVAGE: Here.

MR. CROWE: Just hold that a while, finish up the handwriting.

Q Now, from examination and comparison of the exhibits I have just shown you and the handwritings heretofore testified to by you as being the handwritings of Nathan Leopold, Jr., have you an opinion as to who wrote these exhibits that I have just enumerated and passed to you?

A I have.

Q And whose handwriting are they?

A Leopold's.

Q Nathan Leopold, Jr.?

A Yes, sir.

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MR. CROWF: Now, where is that equity stuff? I will now direct your attention to some carbon copies which have heretofore been marked People's Exhibit 4 of July 24th, 1924, and People's Exhibit 5 of that date, they being carbon copies of some equity work that was done by Leopold in February, preparing for an examination, and ask you to look at that typewriting.

A, I have not seen these before.

MR. CROWE: Haven't you?

A No.

MR. CROWE: Well, I will withdraw that. Strike that out. He states he has not seen these heretofore.

MR. DARROW: What are those?

MR. CROWE: They are equity papers which have been testified to by the other boys as having been written on a portable typewriter.

Q Now, Mr. Tyrrell --

MR. DARROW: You can just as well put those in --

MR. CROWE: They are in.

MR. DARROW: Subject to proof.

MR. CROWE: No, they are in, but he has never seen them before. The boys testified they were done on a portable typewriter.

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MR. FARROW: Oh, all right.

MR. CROWE: You were in the State's Attorney's office
Decoration Day?

A Yes.

Q Decoration Day, towards the evening?

A Yes, sir.

Q That is prior to the alleged confessions in this
case?

A Yes, sir.

Q And the defendant Leopold was there?

A Yes, sir.

Q Did you ask him to make any writings for you?

A I did not.

Q Or did I ask him?

A Yes, sir.

Q Go ahead and tell what was done. I will show you
that paper to begin with. Is that one of the writings?

A Yes, sir.

Q Now, tell what was done after I had him make some
sample writings?

A The specimen of writings that were submitted to me
for my first comparison was pen printed address on the

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envelope and showed a progressive ease of execution, that is, the writer became very adept in expressing his hand and was not the rather slow writing of the earlier specimens. I suggested to the District Attorney that a more suitable specimen could be obtained if a request was made and acceded to, to print a letter containing other subject matter. I then prepared such letter and the District Attorney --

Q Will you read it?

A Yes, sir.

Q Well, read it.

A "Chicago, Ill., May 25th, 1924. Mr. Jackson F. Banks, Dear Friend: Please have Nellie Davenport call up room 505 Burley House any time before two twenty o'clock today. Father has (specific reasons) for thinking that she may have seen Arthur in the city yesterday. Signed, Ballory. Please rush, underscored."

Q This was made by Leopold at that time?

A Yes, sir.

MR. CROWE: I offer that in evidence and ask it be marked People's Exhibit 119.

MR. SHEEDER: (Reporter) 120.

MR. CROWE: 120.

(Marked as requested by counsel)

MR. CROWE: Q Now, referring back to the People's Exhibit, being the specimens made by Leopold in the La Salle Hotel, on the La Salle stationery, did you examine those?

A Yes, sir.

Q Have you an opinion as to whether there was an attempt to disguise the handwriting there?

A As compared with the earlier specimens, yes, sir. That is, the earlier specimens showed the attempt rather than the last one.

Q The ones on the La Salle Hotel stationery being the first ones and those in my office were the last ones?

A Yes, sir, those in your office showed more of an attempt to disguise than those made after.

Q I don't get it quite clear. Give me the La Salle ones. Strike out all that.

MR. DARROW: Ask it leading if you want to and then you can get right to it.

MR. CROWE: Calling your attention to People's Exhibit B 1 to 5 they being the specimens made by Leopold Sunday in the State's Attorney's office, following the confession,

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and now being marked People's Exhibits 109, A, B, C, D and E., is there any attempt at disguise in those?

A There appear not to be. They appear to be fluent and free.

Q Now, I will direct your attention to a number made in the La Salle Hotel on Thursday of that week, prior to the Sunday, and marked People's Exhibit A, 1 to 20. Is there an attempt there to disguise the handwriting?

A Very little. There may be an attempt but very little success. Noticeably in the "y" of city, made in three strokes.

Q I will show you a typewritten sheet which appears to be some work on equity and ask you whether you have seen that before?

A I have.

MR. CROWE: Mr. Darrow, this is -- I have a number of equity propositions that we have not seen. This is the specimen that he did see.

MR. DARROW: All right.

MR. CROWE: This is one sheet. I will now ask that that be marked People's Exhibit number what?

MR. SHEFDER: (Reporter) 121.

MR. CROWE: 121.

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(Marked as requested by couns-1)

MR. DARROW: I suppose you picked out the various letters?

A Exhibits were --

MR. DARROW: I don't mean to belittle your work but anybody could tell, typewritten.

THE WITNESS: Yes, sir.

MR. DARROW: We could all do it?

THE WITNESS: I think, Mr. Darrow, you could do it.

MR. CROWE: That being 121; that being one of the papers taken from the package of papers heretofore introduced in evidence, as papers taken from the room of Leopold. Can you tell on what kind of a typewriter that was written?

A Yes, sir.

Q On what kind?

A Portland Underwood. This was the exhibit taken as a standard for comparison with the ransom and claim letters.

Q Well, is there anything I have overlooked that you have in mind?

A No.

MR. CROWE: That is all, cross examine.

MR. DARROW: I don't care to cross examine him and I have no doubt that these papers are just as you say, but I would like about five minutes after we adjourn to just verify them.

MR. CROWE: Oh, certainly.

MR. DARROW: I don't want to take them away, they might get lost or something.

MR. CROWE: Or appear in the newspaper.

MR. DARROW: Yes. We won't take but a few minutes, just as a matter of precaution.

MR. CROWE: Mr. Wood. I will just ask him one question. I won't have him unless the Court desires, to go into detail.

Mr. Wood, take the stand please.

(Witness excuse.)

J. F. WOOD,

called as a witness on behalf of the People, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY
Mr. Crowe.

Q Your name is what?

A J. F. Wood.

Q And you live where, Mr. Wood?

A I live here in Chicago.

Q What is your occupation?

A I am an examiner of questioned documents, that is, I examine matters that are submitted to me, that is, where a question has arisen concerning the document.

Q And for how many years have you been doing that?

A I have followed it as a profession since 1910.

Q Go ahead and tell your qualifications.

A Well, before 1910 I had appeared from time to time and had made some study of the question, but since that time I have devoted practically my entire time to it. I have collected and read all of the books published in English on the subject, directly upon the subject of

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questioned documents, and many books upon subsidiary questions, microscopy and photography and matters of that kind.

P. FARROW: We don't question his competency.

P. CROWE: Now, do you know, Mr. Tyrrell?

A Yes, I do.

Q And you and he have examined a number of the documents in this case which were purported to be writings of the defendants, both Leopold and Loeb?

A Yes.

Q And you know what his conclusions were as to the writings?

A Yes.

Q The author of them?

A Yes.

Q Did you and he come to the same conclusions?

A Yes, I did.

Q And now have you got photographs of the work you did?

A Yes, I made photographs.

Q Will you give a copy to the Court and a copy to counsel on the other side?

A The case was divided with me into three parts.

15

There was the handwriting part, the pen printing part and the typewriting part. I have made and have here copies of the handwriting of all of the exhibits relating to the handwriting matters which were submitted to me. There are four --

MR. CROWE: There is no cross examination here, and you can merely hand this one copy to the Court and counsel on the other side. There is no objection to that. Now, give a copy of your stuff to the Court.

(Handing documents to Court.)

THE WITNESS: That is the handwriting part.

MR. CROWE: Q On all of it?

A Yes.

Q Now, the photographs you have turned over there now, are the handwritings?

A Those are the handwritings.

Q These photographs are on the --

A On the typewriting.

Q On the typewriting?

A Yes, sir.

Q Will you hand those to the Court?

MR. DARROW: Is this for us?

MR. CROWE: Either you or the Court can have it. I am

not going to introduce them in evidence.

MR. DARROW: There are four copies?

THE WITNESS: Four copies there.

MR. CROWE: I won't encumber the record by introducing them. I would like to have your Honor see them.

THE WITNESS: Of the pen printing there is only one copy, of the pen printing beside the copy submitted to you with the report. There has not been time to make copies of them, but that copy is for the Court. Then, I made --

MR. CROWE: Then you made photographs and comparison of the cut outs and those are here?

A Yes, sir, that is of the pen printing. There are four copies of the handwriting and four copies of the typewriting comparisons.

Q Are these all the photographs you have?

A Those are the photographs that have been made, yes, sir.

Q And these are all that you have got?

A Yes.

MR. CROWE: Mr. Wood has given me all the photographs he has made in his work here and if there is no objection

17 by counsel I will just let your Honor and counsel
look at them but won't introduce them in evidence.
Any cross examination?

MR. DARROW: No cross examination.

MR. CROWE: That is all, Mr. Wood. Thank you.

Now get the man from the Yellow Taxi in
here, the driver.

(Witness excused.)

C H A R L E S R O B I N S O N ,

called as a witness on behalf of the People, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By

Mr. Crowe.

Q What is your name?

A Charles Robinson.

THE COURT: Talk loud enough so they can hear clear back there.

THE WITNESS: Robinson.

MR. CROWE: Speak up.

THE WITNESS: Robinson.

THE COURT: Try it again.

MR. CROWE: What is your first name?

A Charles.

Q Charles Robinson. Where do you live, Charles?

A 3538 South California.

Q Chicago, Illinois?

A Chicago, Illinois.

Q You are a driver for the Yellow Cab Company?

A Yes, sir.

Q And you were on May 22nd, 1934?

A I was.

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Q I will show you a slip here which reads "Driver's order, Yellow Cab Company." Do you know what that is?

A I do.

Q "Name 5052 Ellis Avenue, Franks, apartment H". H means house?

A Yes, sir.

THE COURT: Speak up, young man, so we can hear what you say.

MR. CROWE: "Time wanted, A". What does that mean, with a circle around it?

A At once.

Q "Time despatched, 3:27, driver Robinson, cab number 1924."

THE WITNESS: 42.

MR. CROWE: 1942. Is that an order you got on the 22nd day of May, 1924?

A Yes, sir.

Q At 3:27 in the afternoon?

A I don't remember the exact time but it was between three and four o'clock.

Q The time is here. Your recollection is that it was between three and four o'clock?

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A Yes, sir.

Q Where did you drive to?

A I drove to the house from the stand.

Q What house?

A 5052 Ellis.

Q And what happened?

A I rang the bell as usual and a lady came to the door and said she did not think any one ordered a cab, but she would see. A couple of gentlemen came out and asked me what I was there for, and I gave them the order. They thought I did not have any reason for being there, so I gave them the order and they told me to wait.

Q Well, you stayed there a while and then what happened?

A They paid me and I left.

Q You did not get a load?

A I did not get a load.

MR. CROWE: I offer in evidence the driver's order of the Yellow Cab Company just referred to and ask that it be marked People's Exhibit 120 --

MR. SMITH: 122.

MR. CROWE: 122.

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(Marked as requested by counsel.)

MR. CROWE: You may cross examine.

MR. B. BACHRACH: No cross examination.

MR. CROWE: That is all.

(Witness excused.)

MR. CROWE: Now, get the fellows from the Underwood
Typewriter Company.

G E O R G E W. M C C L E L L A N,

called as a witness in behalf of the People, having been first duly sworn, was examined and testified as follows :

DIRECT EXAMINATION

By

Mr. Savage.

Q State your name, please?

A George W. McClellan.

Q Your address, Mr. McClellan?

A Where I live, or the office?

Q Where you live?

A 1205 Sherwin Avenue.

Q And your business?

A Manager of the Underwood Typewriter Company, Chicago.

Q Calling your attention, Mr. McClellan, to the first part of June, 1924, was there a request made by the State's Attorney to your office pertaining to an Underwood Portable typewriter?

A Yes, sir.

Q Requesting information on same?

A Yes, sir.

Q And pursuant to that request did you make an investigation, your office make an investigation?

A Yes, my assistants did.

Q Your assistants?

A Yes.

THE COURT: Your assistant did?

THE WITNESS: Yes, sir.

R. SAVAGE: His assistants, he said. His assistants.

Q Will you tell the Court, Mr. McClellan, just what you did, your assistants did under your direction after this request was made?

A Well, I was absent at the time the request made in but my assistants and one of the portable salesmen came over to the State's Attorney's office Saturday afternoon.

Q Is that assistant there now?

A Yes, sir.

Q The man that came over here that afternoon?

A Yes, sir.

MR. CROWE: Well, was a report made to him?

MR. SAVAGE: He said he was absent.

MR. CROWE: Later?

MR. SAVAGE: Later was there a report made to you, Mr. McClellan?

A Yes, sir.

MR. CROWE: Show him the report.

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MR. SAVAGE: Mark that for identification. Mark it the next number, 123.

(Marked as requested by counsel.)

Q I will ask you to look at People's Exhibit for identification No. 123, Mr. McClellan, and state whether or not those reports were submitted to you upon your return?

A Yes, sir.

Q Now, will you explain to the Court, Mr. McClellan, just what system is used by the Underwood people when a type riter that has been sold by them is lost or reported stolen?

A It is reported to our Comptroller in New York who has a record of all the different numbers of machines and he puts that number on the stolen list and a copy is sent to every branch in the United States.

Q Now, your assistant, Mr. McClellan, came to the State's Attorney's office and examined the typewriter in question. That is right, that you are asked to make a report about?

A Yes, sir.

Q And from that typewriter he obtained two numbers?

A Yes, sir.

25

Q And after making his investigation he found that number 62151 was on your list of reported stolen machines, is that right?

A Yes, sir.

Q And that was described as an Underwood portable machine?

A Yes, sir.

Q Now, your records also showed that this machine was sold to a man by the name of Eitker, is that correct?

A Yes, New York records. Our office records here did not show that.

New York records?

A Yes, sir.

MR. SAVAGE: If the Court please, I desire to read the communications at this time.

MR. DARROW: What is that?

MR. CROWE: I would not read them. Just get the other man in and let him testify as to the number of this machine, and then introduce that report.

MR. SAVAGE: Very well. Cross examine.

MR. DARROW: Just a minute.

CROSS EXAMINATION

By
Mr. Darrow.

Q Where was this reported stolen from?

A From Grand Rapids, I think, or Milwaukee. Neither one are under our jurisdiction here.

Q Does your memorandum show where?

A I think the telegram from New York shows where.

Q Show it, will you please?

A Do you want the entire message?

Q No. Where was it reported stolen from?

A Reported stolen January 2nd, from Milwaukee, T. H. Bitker, 2006 Washington Avenue, Ann Arbor, Michigan.

Q Now, tell the Court where it was reported to have been stolen from?

A Ann Arbor, Michigan.

Q Ann Arbor, Michigan, was it?

A Yes.

MR. DARROW: That is all.

(Witness excused.)

F R E D G. S C H U L K E,

called as a witness on behalf of the People, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By
Mr. Crowe.

Q What is your name?

A Fred G. Schulke.

Q Where do you live, Mr. Schulke?

THE COURT: Spell it.

THE WITNESS: S-c-h-u-l-k-e, Fred G.

MR. CROWE: Where do you live?

A 244² Winnemac Avenue.

Q And what is your business?

A Assistant manager of the Chicago branch of the Underwood Typewriter Company.

Q Were you in the State's Attorney's office some time in the early part of June of this year?

A Yes, sir.

Q Did you see the machine, the Portable Underwood typewriter that is before you now, at that time, in the State's Attorney's office; referring to the portable typewriter found by the witness Blair in the lagoon in

28 Jackson Park and introduced in evidence several days ago. Did you take the number of the machine at that time?

A Yes, sir.

Q What kind of machine is this?

A Underwood portable.

Q An Underwood portable?

MR. SAVAGE: People's Exhibit 1 of 7/24/24.

MR. CPOWE: It being People's Exhibit 1 of July 24th, 1924.

Q What was the number of that machine?

A 62151.

Q And you made an investigation then, did you, to find out whether or not you had any report on it to your office, or New York office?

A Yes, sir, I wired our Comptroller and wired one of our branches.

Q And what did you find as to whether you have a report on it or not?

A Our Comptroller sent us a telegram telling us that the machine was sold by our Milwaukee office and since been reported stolen.

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Q Do you remember on what date it was reported stolen?

A It was reported to the branches on the 16th of January, 1924.

Q It was reported to your branch offices January 16th, 1924, as having been stolen?

A Yes, sir.

MR. CROWE: That is all. Any cross?

MR. DARROW: That is all.

THE COURT: That is all.

(Witness excused)

MR. CROWE: Now, I can call a witness who made an investigation, or who made the statement that the owner of this machine, Bitker, is now in Europe, and that is the reason we are not producing him.

MR. DARROW: That is all right.

MR. CROWE: You will admit that this witness will so testify that he is?

MR. DARROW: Yes.

THE COURT: What is the name of the man?

MR. CROWE: Bitker.

THE COURT: Spell it. Spell Bitker's name.

MR. SAVAGE: J. L. B-i-t-k-e-r.

30 MR. CROWE: Another witness whose name I believe is on the indictment who won't be present, his name is - What is that little boy, Hartman?

MR. SAVAGE: Irving Hartman.

MR. CROWE: Irving Hartman. He is out of the jurisdiction of the State, being up in Northern Maine some place.

MR. DARROW: I don't envy him being in Northern Maine.

MR. CROWE: And Chief Hughes who is another witness is in a hospital. He has recently been operated on.

MR. DARROW: Very well.

MR. CROWE: There are no other witnesses upstairs, are there?

MR. SBARBARO: No.

MR. CROWE: Now, if your Honor please, the next witness will be Captain Schumacher, and I expect he will testify about an hour. Do you want to start now?

MR. DARROW: I want to look at that exhibit a few minutes. We are willing to adjourn.

THE COURT: Counsel wants to look over some of the exhibits so there will be no further testimony until two o'clock. The Court will suspend now until two o'clock.

31 All the witnesses return promptly at two.

(Whereupon an adjournment was taken until two
o'clock P. M., Monday, July 28th, A. D. 1924.)

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lr

Monday, July 28th, 1924.

2:00 o'clock P.M.

Court convened at two o'clock P.M. July 28th, 1924, pursuant to adjournment heretofore taken.

Present: Same as before.

WALLACE SULLIVAN,

a witness called on behalf of the prosecution, was first duly sworn and testified as follows:

DIRECT EXAMINATION BY

MR. SAVAGE.

Q Will you state your name, please ?

A Wallace Sullivan.

Q Keep your voice up, Mr. Sullivan . What is your address ?

A 4613 Woodlawn Avenue.

Q What is your business ? A Newspaper Reporter for the Herald Examiner.

Q Employed by whom ? A By the Herald Examiner.

Q How long have you been employed by the Herald Examiner as a newspaper reporter ?

A About a year and a half.

Q And prior to that what was your occupation ?

A Newspaper Reporter.

Q For whom ?

A For the Associated Press.

Q How long were you employed by the Associated Press ?

A About eight months.

Q And prior to that what was your business ?

A Working for the Daily News.

Q As a newspaper reporter ? A In the Advertising Department.

Q In the Advertising Department ?

A Yes.

Q Were you formerly a member of the law school, or did you attend the law school at the University of Chicago ?

A No sir, at Northwestern University and at Kent College of law.

Q Do you know Nathan Leopold, the defendant in this case?

A I know him now, I didn't know him prior to the case.

Q Do you know Richard Loeb ?

A I know him from interviews at the County jail and

Q Now when was the first time, Mr. Sullivan that you had anything to do in the way of working on this particular case not from its inception, but pertaining to Leopold and Loeb ?

A You mean the first time I saw either of the two ?

Q The first time you did anything at all, what did you do, what was the first ~~xxx~~ thing you were assigned to after this case opened up ?

A The first assignment I had on it was to go to Robert Frank's home, the day it became known that his son had been killed.

Q Well on May 30th did you go out to Leopold's house ?

A Yes sir at two o'clock in the morning on the 30th of May I received a "flash" from my office at the Hyde Park Station.

MR. BACHRACH: I object to the "flash".

A Well, a telephone call.

MR. CROWE: Strike the "flash" out.

MR. SAVAGE: Q A telephone call ?

A Yes, that Nathan Leopold who lived at, I believe,---

MR. BACHRACH: Don't tell what they told you.

THE WITNESS: Oh, I see.

MR. SAVAGE: Q Well after receiving that call you went out to Nathan Leopold's house is that right ?

A Yes sir.

Q Just tell His Honor what you did after you arrived there and whom you saw ?

A I didn't see anyone there at the house, no one answered the bell when I rang and the garage was dark, and there was nothing for me to do but observe and get enough for the morning edition, so I found at a side entrance to the house a maroon colored Willys Knight car which I presumed was the car that they used, but which I later found was not, and with the aid of a lantern which I procured from a watchman, which I believe was Bernard Hunt, who found the chisel in the case, I examined the car. The front seat I turned over and found numerous hairpins and a few numerous odds and ends, like keys and tooth picks, and material of that nature, and also observed a jack which was very much covered with mud and clay and other mechanical devices such as monkey wrenches and hammers and things of that nature, also entwined with twigs and covered ~~windows~~ with mud and in the rear of the car I looked most minutely for blood stains but I was unable to find any, and in the left hand pocket of the door of the car I found three time tables, two Illinois Central time tables and a Michigan Central Time table and a flash light, the battery of which was out, and also what appeared to be

a cudgel, with paper and twine industriously tied around it making an unnatural --- I didn't know what it was, but it looked like an onimus sort of weapon, and I reported to my office that I had found what apparently had been used to strike the blow which knocked the young lad out.

Q I will ask you to look at People's exhibit number 35, a Chicago Daily News paper of Wednesday April 23rd, 1924, and state whether or not the paper you are speaking of resembled People's exhibit number 5 ?

A It did, I am quite sure it is the one.

Q Now what did you do with that paper after you found it in the pocket of the car ?

A I turned it over to Sergeant Crot of the Detective Bureau.

Q Was there anyone else with Sergeant Crot at that time?

A Yes, I believe all the men that are in his command, under his command, also a daily news reporter.

Q I will ask you to look at People's exhibit number 37, 38 and 36, and a flash light, the exhibit number of which does not appear at this time, and state whether or not those are the time tables that you have referred to and the flash light which was found in one of the pockets of the car?

A yes sir, I have no question but what they are.

Q Now what was done with the flash light and time tables

after you called the officer's attention to them, in the pocket of the car, what did they do with them, if anything?

A They took the paper wadding and left the flash light and time tables in the pocket of the car, and about a week later, after the two men were in custody in the County jail, I believe, why I believe the States Attorney, mentioned the time tables and flash light and wanted to know where they were.

MR. BACHRACH: I object to what the States Attorney told him.

MR. SAVAGE: Q Just tell what you did, if anything, Mr. Sullivan?

A Well I took the States attorney, the Chief of Police, Michael Hughes and the Acting Chief, Shoemaker, to the Municipal Pier where there is a garage for the keeping of cars in which there have been crimes comitted, or which have been receovered by the police and we found the flash light and time tables in the respective pockets in which I had found them before.

Q This car, this red Willys-Knight car, touring car that you have been speaking of was removed from the Leopold House to the Municipal Pier ?

A Yes sir.

Q And later you went to the Municipal Pier, accompanied by the Chief of Police and Assistant States Attorneys and others and there the time tables and flas light were taken out of the pocket of the car ?

A yes sir.

Q Did you see that car at the Municipal Pier ?

A yes sir.

Q And was that the same car you saw out in the passageway of Leopold's house ?

A It was.

Q Did you also see that car in the jail yard here ?

A No sir.

Q Now when was the first time you had any conversation pertaining to this case with either Leopold or Leeb ?

A On the re-enactment tour, which I was assigned to by my paper.

Q What was the date of that do you remember ?

A The frst of June.

Q Sunday ?

A yes sir.

Q Well just go on and tell what the conversation was between yourself and Leopold and Leeb or between anyone else in your presence with Leopold and Leeb ?

A Well, we were together about four hours in the car, I believe, if not more, and during that time, why Mr. Leopold ---

Q Well, start from the beginning Mr. Sullivan and tell the first conversation you had or anyone else had with Leopold or Loeb in your presence ?

A Well, the first words I ever heard from ~~Leopold~~ Leopold were directed to Chief of Police Michael Hughes, as I didn't expect ~~him~~ to talk to me insofar as I am a Reporter.

THE COURT: Well, never mind that. Just tell us what was said ?

A And he said --- he noticed the chief leaning over in a sort of peculiar posture, and he wanted to know if his wife had been kicking him around, and it happened the chief had his hip dressed at St. Luke's Hospital ---

THE COURT: Never mind that. Just tell us what was said ?

A I will have to tell what I wrote down in order ---

THE COURT: If you cannot tell what was said, say so.

MR. SAVEAGE: Q Just state the conversation ?

THE COURT: We are asking now for the conversation that occurred between you and Nathan Leopold, Jr. or

Richard Loeb, or any conversation with them in your presence ?

A Well, the chief merely grunted, and Nathan said, "You know, I believe it is the nineteenth chapter, fourth verse of Caesar, do you know that Caesar married an Irish Woman" and the chief said, "Is that so?" Nathan said: "Yes, he married a woman named Bridget," and that merely caused a laugh. Then Nathan looked over my shoulder and said: "You don't take shorthand do you" rather ~~disparagingly~~ ~~lx~~ disparagingly. The first words which he spoke to me ---

MR. BACHRACH: I ask to strike that out.

MR. CROWE: Strike out the "disparagingly". X

MR. SAVAGE: Q Just state the conversation?

THE COURT: Strike it out.

A And I said "No I don't take shorthand, and I don't know of any other reporter in the city that does, other than a court reporter" and Nathan said "Well, it would be good idea to have a memory such as I have, I have a ~~neum~~ neumonitor system which I use", and he said, "For instance, you can give me twenty five consecutive concrete problems, and I will give them back to you, both backwards and forwards, or any of the words that you mention".

Well, when he mentioned "concrete" it was manifest that was not the neumonitor system, because the neumonitor system ---

MR. BACHRACH: We object.

THE COURT: We don't care to hear about the neumonitor system.

MR. BACHRACH: I ask that the attention of this witness be directed to something that indicates the guilt of these defendants rather than neumonitor systems.

THE COURT: Let him tell the whole conversation, if he will only do that.

MR. SAVAGE: Q Tell the whole conversation?

A I will tell just what he said?

THE COURT: That is what we want.

MR. SAVAGE: And what you said to him.

A Well, what I said to him, he has to reply?

THE COURT: You can say what he said to you and what you said to him?

A The direct quotes which I can give of him are these: "Aren't golf players nuts?" "Aren't they bugs?" And "Aren't the lilacs beautiful?" "I was supposed to take an examination in law for entrance to

the Harvard University yesterday, an examination in Agency", I believe he said, "I had previously taken examinations in Equity, Jurisprudence, Chancery, Common law Pleading, Torts and Bailments, but the examination in Agency was the one I particularly wanted to take;" so I gave him an examination in Agency. Can I say what that was and give his answers ?

THE COURT: You can say anything he said to you or that you said to him ?

A And I asked him to define Agency and how an Agency was terminated, what the duties and liabilities of the principal and third party were, and third party to the principal and the Agent to the third parties and vice versa, and also questions in real property; I believe we conversed about 'use upon use' was and 'shifting use' and the rule in Shelley's case, and various hypothetical questions and the answers which he gave indicated that he had an excellent knowledge of law, and although the answer -- well, I can't say that ---

MR. SAVAGE: Q What did he say ?

THE COURT: What did he say and what did you say ?

A He said --- I cannot give verbatim just the answers that he made.

MR. CROWE: Give the substance as near as you remember it?

THE COURT: As nearly as you can.

A But the next way, I asked him just how far advanced he was in mathematics and he confessed that he was rather impoverished in that regard, that he knew nothing about philastis and neurastics or trigonometry or any of the other forms of higher mathematics, but that he was very desirous sometimes of taking up the philosphy of philastics, and the next I asked him was if it were true that he knew so many ~~ixm~~ languages as he was flaunted before the public with knowing, if he really knew fifteen languages, and he replied that he didn't know them as fluently, and he couldn't write them all, but that he had studied all these languages, and he indicated that he had --- he also said, "I can recite Il Penseroso by ~~Heart~~ from Milton" and it sort of amased ~~me~~ him when I told him I could do the Rubyat, and then regarding crime, the testimony which I would like to give regarding the crime that does not seem to have much of a bearing.

MR. SAVAGE: Just a minute ---

MR. DARROW: The testimony which he would like to give ?

MR. SAVAGE: Q Tell what you said to Leopold or Loeb pertaining to the crime and what either Leopold or Loeb said to you, or anyone else in your presence, any question you asked him or any answer he gave you, or any question that he asked you, that is what the Court wants to hear ?

A Well the first question I asked him was concerning the crime, "What is the significance" ---

Q Who are you referring to now ?

A To Leopold.

Q To Leopold?

A I am with Leopold all the time in company with Detective Michael Hughes, with the New York correspondent and Cunningham his chauffeur. At this point we stopped at St. Luke's Hospital and I asked him what was the significance in this crime here of the paper cudgel or improvised thing which I found in the rear of the car and he laughed and said, "Oh, we used that as a decoy to rehearse the crime, throwing it from the rear end of the car, but one day we found out that Loeb was not permitted to get on the back car by the conductor" and I cannot remember just now what it was that he said regarding the conductor. Anyhow, I went over ~~over~~ as he had

stopped so that Chief ~~Mr. Michael~~ Michael Hughes might have his hip dressed, I walked over to the car in which Leopold was sitting and I asked Loeb what was the significance of the cudgel without mentioning what Leopold had told me, and he answered that it was --- he substantiated the story of Leopold. Then I noticed that as the reporters were talking to Loeb they seemed greatly ingratiated by him, that is, he ingratiated himself ---

MR. BACHRACH: I object.

THE COURT: Strike it out.

MR. CROWE: Strike it out, and just confine yourself to the conversation.

MR. SAVAGE: Q And nothing but the conversation, what you asked them, Mr. Sullivan and what they told you.

A Then I went back to Leopold and it was getting kind of late and I had to get my story in quick, so I said, "Did you kill Robert Franks or did Loeb kill him" and Nathan said, "Loeb killed him." So I went back to Loeb's car and I said, "Nathan said you killed Bobby Franks, is it true," and Loeb said, "No." So I returned to Leopold's car and I said to Leopold, "It looks pretty bad for you, Leopold. Leeb has the

confidence of all the reporters and everyone and he seems to have convinced everyone that you are the real perpetrator of the crime, the one who really struck the boy," and Leopold shot back, and I said "Can you prove"---

MR. BACHRACH: Just a moment.

MR. CROWE: Strike out "shot back".

MR. SAVAGE: Q What did he say ?

A He said, "I can prove that it was I who was driving that car, insomuch that Loeb admits that the boy was sitting in the front seat and was struck from behind, I can prove that it was I who was driving the car, and the possessor of the Willys-Knight car for one thing, I hired the car for another, and the third point is that I took the car to my garage to get fuel for it, gasoline and oil, isn't it likely then that I would be driving the car?" I went back to ^{Loeb} ~~Leopold~~ and I said: " It looks pretty bad for you, Loeb." I said: "Leopold has a pretty fine --- he has a good reason to prove that you are the one who did it" and then I related to him what Leopold had said. Loeb said, "Well, you go back and tell him that he admits that he doesn't know me --- I mean Bobby Franks, that I introduced him to him, and

it is more likely that he would be sitting next to me in that car than it would be for him to sit next to Leopold," and then Leopold jumped up and said --- when I went back with that story Leopold said, "WHY I can show you just exactly how he did it." I said: "Would you mind showing me just how you enticed Bobby into the car"---

MR. SAVAGE: Q You say "you". Who are you speaking of now Mr. Sullivan?

A I am speaking to Leopold. He said "I was seated in the front of the car and Loeb was in the rear", he leaned over and then he demonstrated, he leaned over and grasped the end ---

Q Who leaned over ?

A Leopold leaned over in the Chief's car and demonstrated in the chief's car, and demonstrated how they had leaned across the car and committed the crime.

Q How Loeb had leaned across ?

A Yes, and in a pantomime he showed how they had enticed the boy into the car, and said as a means of getting him to get into the car they said something about a tennis racket, which sort of struck a complex with the young chap.

Q How did he tell, now, that Loeb got him into the car ?

A He said Loeb said, "Bobby, I want to introduce you to Mr. Leopold," and he said also --- I guess he said then, I am not positive but I think he said the boy seemed reluctant to come, by such a subterfuge as they had used, so he quickly supplemented, "I have a tennis racket here Bobby", I can't remember just what it was about that tennis racket, but the very name "tennis racket" brought the boy to the car, and he said they got him in the car and then they drove away, and Leopold said he struck him on the head. Before this, however, Leopold said --- I should go back. I told Leopold after he had heard what Loeb said about his striking the boy--- his, Leopold's, about his, Loeb's, striking the boy, he says, "You go and tell Leopold that I am surprised that he would falter before the States Attorney, I am surprised that he confessed. Tell him I am more surprised that he fainted" and he used words like "Tell him I am chagrined that he should have, but I regret that I took him as my accomplice, and there is one thing that at which I am most surprised and that is that he fears death". Then he said, "Also I want you to tell Loeb that he knows that

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the striking of a human being by me is so repugnant and against my nature that he knows it is he who did that," he says, "He knows that I just couldn't do such an act."

Now prior to that Leopold made a statement which he later corrected in the County Jail, which ought really to be told on the stand here. He said that in --

MR. BACHRACH: I move to strike that out.

MR. CROWE: Yes, strike it out.

THE COURT: Yes.

MR. SAVAGE: Q Just state the conversation?

A He said that in the form of experimentation. Well, just as I can remember it, he said in the form of experiment, causing pain to the subject is highly commendable, irrespective of the pain or injury caused the subject, if in the experimenting the experimenter advances his own knowledge, and then he elucidated by saying that if a young boy of six years pulls the wings from a fly and thereby learns that after the wings are pulled away that the fly cannot fly, why he is doing an exemplary and commendable thing.

Later as I reported that, I asked him then to tell me just what he meant by that, and I reported it word for word what he said.

Q Just a minute, Mr. Sullivan, just tell us what the conversation was there on that trip, not what you reported?

A And then later --

MR. BACHRACH: Is this what he said in the County Jail?

MR. SAVAGE: No.

THE WITNESS. Leopold says that he met reporters --

MR. SAVAGE: Q Just a minute, Mr. Sullivan. This last conversation that you are telling us about, was that in the jail, or on the trip?

A That was a correction in the jail. The first one was during the reenactment and the other was the correction in the jail. It doesnot mean anything to state it as it was said in the car, because what he really meant and told me later in the jail --

Q Well, what did he say when he was in the car?

A That is what he said, as I have stated.

Q What did he say in the jail?

A In the jail he said that what he meant --

MR. BACHRACH: I object to repeating it, if he has told it.

MR. SAVAGE: Q What did he say in the jail?

MR. BACHRACH: I object.

MR. CROWE: Wait a minute. The conversation that you have just related, was that had in the car or in the jail?

A The former part of it was related in the car, about the experiment.

THE COURT: Now beginning --

A The correction of it was in the jail, the correction of the statement was in the jail.

THE COURT: Now, where do you begin the correction?

A Regarding the pulling of the wings from a fly.

THE COURT: Now go on, if there was anything further in the jail, tell us?

A In the jail he said that he meant that Reporters ~~xxxxxx~~ gave no one a chance, that is, a person had no come-back to a reporter. They merely experimented with them, they impaled them, there was no retort for the person to make once the reporter had

said anything against them, he thought it unethical, and that is all.

MR. SAVAGE: Q Did you have any conversation with Loeb on that trip other than what you have told us not that you can remember?

A No sir.

Q Did you have any conversation in the jail with Loeb?

A I had conversations in the jail with Leopold and Loeb for weeks at a time every day.

Q Was there anything else now about that conversation with either Leopold or Loeb in the jail that you haven't told us about, in substance?

A Is there anything about what?

Q Is there anything else that you talked about in the jail that you haven't told us about at this time with either Leopold or Loeb?

A No sir.

MR. SAVAGE: You may cross examine.

MR. BACHRACH: That is all.

(Witness excused and no cross examination)

- - - -

J O H N O. L E V I N S O N ,

a witness called on behalf of the prosecution, having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SBARBARO.

THE COURT: How old are you, son?

A Nine and a half.

THE COURT: Nine and a half.

Q Do you go to school?

A Yes.

THE COURT: What school do you go to?

A Harvard.

THE COURT: Q What grade are you in?

A Going into the fifth.

THE COURT: You know what it is to tell the truth,
do you?

A Sure.

THE COURT: Do you know what it is to swear falsely.

A What?

THE COURT: Do you know what it is to swear falsely?

A Yes.

THE COURT: What do they do with people who swear

falsely or don't tell the truth? What do they do with

them? Where do boys go that don't tell the truth?

A Put them in jail.

THE COURT: Well all right.

MR. SBARBARO: Q Will you state your name?

A John O. Levinson.

Q What is the middle name?

A Oliver.

Q Where do you live, John?

A 4049 Lake

Park Avenue.

Q How old are you?

A Nine and a half.

Q What school do you attend down there?

A Harvard.

Q How long have you attended that school?

A Four years.

Q And where is that school located?

A 4731 Ellis.

Q Now, do you know the defendant Richard Loeb?

A Yes.

Q Will you point him out in the courtroom, do you see him here in the courtroom, will you point him out?

A Yes, there (indicating).

Q Now directing your attention, John, to the 21st day of May, 1924, in the afternoon, will you tell the court if you saw the defendant, and if you did, where?

A I saw him at the school yard.

Q Where is the school yard located? A In back of the school.

Q About what time of the afternoon was that?

A Two thirty.

Q Did you have a conversation with Richard Loeb?

A He just said "Hit it up."

Q What were you doing at that time?

A Playing baseball.

Q Did you have any further talk with him?

A No.

MR. CROWE: What school?

MR. SBARBARO: You may cross examine.

MR. CROWE: What school?

MR. SBARBARO: He said the Harvard School.

MR. CROWE: Where is it?

MR. ~~SB~~^{RO}: Q Where is the Harvard School?

A 4731 Ellis.

MR. SBARBARO: He has answered that question.

Q Who was with you on that afternoon, John?

THE COURT: At what time do you mean?

MR. SBARBARO: Q Who was with you at the time you were playing there at the time you spoke with the defendant Richard Loeb?

A Just some boys that attend the school?

Q Any professors there?

A Yes.

Q Who?

A ~~Says~~ James Seass.

MR. CROWE: Talk louder.

MR. SBARBARO: He says James Seass. You may cross examine.

CROSS EXAMINATION

BY MR. BACHRACH.

Q Say, John?

A Yes.

Q When was school over this year?

A What?

Q When did school finish?

A Do you mean let out?

Q Yes?

A For the end of the year?

Q Yes.

A Friday, June 13th.

Q Friday, June the 13th?

A Yes.

Q And have you a place where you go in the summer?

A Yes.

Q Where is it?

A Kennibunk. Beach, Maine

Q In the State of Maine?

A Yes.

Q How long does it take you to go there?

A Oh, about a day and a half.

Q About a day and a half?

A Yes.

Q And when did you go there this year?

A The

30th of June.

Q On the 30th of June, and you remained there from the 30th of June until when?

A Let me see. I can't remember what yesterday was.

THE COURT: The date?

A Yes sir.

MR. BACHRACH: Q Yesterday was the 27th of July.

A Until the 27th.

Q Until the 27th?

A yes.

Q Did you come back to Chicago yesterday, the 27th of July?

A No, I came back today.

Q Today?

A Just this morning.

Q And when did you leave Kennibunk, Maine, to come here?

A At 9:50 in the morning.

Q At 9:50 in the morning?

A Yes.

Q And when do you expect to go back?

A Tomorrow.

Q Tomorrow? A Tomorrow at one thirty.

Q You have no other business except this trial, have you?

A No.

MR. BACHRACH: That is all.

(Witness excused)

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W I L L I A M S H O E M A C H E R,
recalled as a witness on behalf of the prosecution,
having heretofore been duly sworn, was further examined
in chief by MR. ~~SMITH~~^{SMITH} and testified as follows:

Q Were you sworn this morning, Captain?

A Yes.

Q Will you state your name, please?

A William Shoemaker.

Q You are the same William Shoemaker that testified
here this morning?

A Yes sir.

Q Now, Captain, you are one of the officers that
participated in the original investigation of this
case?

A Yes sir.

Q When did you first begin the investigation?

A I started on the 22nd of May.

Q Do you know the defendants Nathan Leopold, Junior
and Richard Loeb?

A Yes sir.

Q When did you first see them with reference to this
trial?

A On May 30th.

Q Where?

A Well I seen Leopold in the First Precinct Police Station, in a cell.

Q And what if anything did you do with reference to Nathan Leopold at that time?

A I brought him to the State's Attorney's office.

Q What time of day was that, Captain?

A About three o'clock in the afternoon of May 30th.

Q And who was present in the State's Attorney's office when you brought Nathan Leopold there?

A Well State's Attorney's Crowe and Savage, and I believe yourself and Sbarbaro was there, and there was a number of other people there.

Q Was Richard Loeb there?

A I don't know, I didn't see him.

Q Now will you tell his Honor, Judge Caverly, what transpired in the State's Attorney's office, after you brought Nathan Leopold there?

A I brought him in and turned him over to the State's Attorney who took him into a room there which

I did not enter, and I had a talk with the State's attor-

ney. Do you want me to relate what that talk was?

Q Not unless either one of the defendants were present, Captain?

A No.

Q What did you do after that?

A I then went out on the south side with Mulroy and Goldstein.

Q That is the reporter for the Daily News?

A Yes.

Q And what did you do out there?

A I questioned some boys that were going to the Chicago University with Leopold.

Q With reference to what?

A To a typewriter that was used at his home, making up what they call "dope sheets".

Q And after you questioned these boys, Captain, where did you go?

A I went back to the State's Attorney's office.

Q What transpired then?

A Oh, just a minute. Before I went back to the State's Attorney's office I went to Leopold's house.

Q And what transpired at the Leopold home?

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A Well I went in and told them who I was and said I wanted to get the typewriter.

Q Who did you speak to there?

A I spoke to Mr. Steele.

Q In what capacity was he employed there?

A Well I believe he is just a friend of the family.

Q All right. Now go ahead and tell what happened?

A And one of his brothers was there --

Q One of whose brother's?

A Leopold's.

Q That is, Nathan Leopold's brother?

A Yes, some woman who I believe was an aunt of his, and there was a maid there, Elizabeth Sattler, I think her name was, something like that, they said that they were there, somebody came there during the night and took a way a Hammond typewriter, and I told them that was not what I wanted, I said "I want a portable typewriter that was used here", so they started to question one another about it and looked for it, and his aunt was questioning the maid there about the typewriter, and she said, "yes, that typewriter was here", and I says, "when did you see it last", and she says, "I seen it two weeks ago", and I says,

"Well, what became of it, " and she says, "I don't know, it ought to be around here." So they started looking around the house for the typewriter and we were not able to find it, so then I came back to the State's Attorney's office.

Q What transpired after that?

A I brought in I believe five boys that had been present in the house and seen Leopold use the portable typewriter for the writing of these dope sheets.

Q Do you remember the names of any of these boys?

A Well, Arnold Marmont was one, Oberndorf and Shamberg, and there were two others, their names don't come to me right now.

Q All right.

A When I brought them to the State's Attorney's office we got Leopold in a room there, in the front room, with three typewriters, and we brought these five boys in, and they made their statements in the presence of Leopold.

Q What did Leopold say, if anything, at that time?

A Well he seemed to -- he said that there must be some mistake, and he questioned each one of the

boys, but they remained firm, and said that they remembered distinctly that he had this portable typewriter there, although they didn't say just what make it was.

Q About what time on -- this was on Thursday, was it?

A We also identified the writing, the dope sheets that were written on this typewriter.

Q This was on Thursday? A This was on Friday.

Q On Friday, that is Decoration Day?

A The 30th, yes.

Q All right, go on from there, Captain and tell what happened?

A We questioned Leopold further on the typewriter and he said "Well, I think that typewriter is at the house". He says, "Come to think about it, I did have a portable typewriter," and he says, "I believe it is at the house." He says, "that is one that I got from a fellow by the name of Mandel."

Q Leon Mandel?

A Leon Mandel. So later that evening, that night it was, I went to the house with Leopold and Savage.

Q That is, Leppold's home?

A Yes.

Q All right, now what transpired there?

A He proceeded to look for the typewriter.

Q Now just tell the court in your own way what he did there?

A He went to the second floor and looked under bureaus and in drawers and in closets, looked in a number of places, and I was satisfied myself --

Q Just a minute. ~~But~~ ^{Just} tell what he did, don't state your conclusions.

A He looked into places, drawers that were about four inches deep I should judge.

Q Well after he made the search therefor the typewriter, what else transpired if anything? Did you find the typewriter?

A He wanted to question the different people in the house.

Q Yes.

A He wanted to go to the maid's room and question two that was in bed there, and when he entered their room I entered with him, and I questioned

this maid Elizabeth, I says, "did you tell me that that typewriter was here two weeks ago, this portable typewriter" and she says, "yes", so he tried to -- he said, "I think you must be mistaken, Elizabeth", so I says, "you are sure about that, are you Elizabeth, that it was here two weeks ago", and she says "yes." So we started back, we left there and started back to the State's Attorney's office. On the way back Leopold was seated in ~~the~~ the rear seat with Mr. Savage and they had a conversation there.

Q Did you hear that conversation?

A I heard part of it.

Q Will you tell the court what part you heard?

A Leopold said, when we got back to the State's Attorney's office he says, "I will tell you something" --

Q Now, Captain, just when was this as to day and date, if you remember?

A This was on the morning of, I should judge it was twelve o'clock, after twelve, it would be May 31st.

Q After you got back to the State's Attorney's office will you tell Judge Caverly what happened?

A Leopold and Mr. Savage entered a room down there

called Mr. Gorman's room at the present time, it is a room in the corner of the building, and they were in there a lone for quite a while talking, and later Mr. Crowe went inthere.

Q Now just let me divert your attention one minute, Captain? Do youknow the age of the defendant, Richard Loeb?

A Richard Loeb is eighteen years of age, he told me at the time he was arrested.

Q Do you know the age of the defendant Nathan Leopold Junior?

A He said he was nineteen years of age at the time he was arrested.

Q Now go ahead, Captain and tell the Judge what happened after they had entered Mr. Gorman's room?

A Well I don't know what took place in there, I was outside in the adjoining room, but they remained in there for quite a while. About I should judge one thirty in the morning, sometime aaround that, I was told that--

MR. BACHRACH: I object.

MR. SMITH: Q Don't tell what you were told, just tell what happened, what you heard?

A He was still in the room and the State's Attorney was in there.

Q All right.

A And Richard Loeb was in another room therewith Mr. Sbarbaro.

Q All right, now go ahead from there.

A And later Richard Loeb was brought into the State's Attorney's private office with Mr. Sbarbaro, he was in there a short time, when I went in there with Mr. Sbarbaro and Richard Loeb, and I heard him --

Q When you say him who do you mean?

A Richard Loeb?

Q The defendant in this case?

A Yes.

Q All right, tell ~~xxxxxxx~~ what you heard him say or anyone say in his presence at that time?

MR. SMITH: I was going to suggest, if the Court please, the confessions themselves will be read, and I was wondering whether or not we ought to burden the record with the confessions as far as the Captain is concerned?

THE COURT: Will there be any objection to the reading of the confessions?

MR. DARROW: No, your Honor.

THE COURT: There is no use repeating it.

MR. SMITH: There is no use having him state it when the confessions are going to be introduced.

THE COURT: No.

MR. SMITH: Q Now just tell what was going on in the State's Attorney's private office?

A Well, Richard Loeb made a statement there covering all the details of the crime from the time they first talked of it.

Q When ~~xxxx~~ you say "they" who have you reference to?

A Nathan Leopold and Richard Loeb.

Q All right.

A They said the first time that was mentioned was last November, 1923.

Q Now after Richard Loeb had detailed the statement you speak of, what happened then?

A It was taken down by a stenographer.

Q Yes.

A And Nathan Leopold was brought into the room.

Q Now who was present at that time? Was the defendant Richard Loeb present?

Q Now go ahead, Captain.

A I was present. Chief of Detective Michael Hughes, who is at present in the hospital, he is laid up, and Assistant State's Attorney Sbarbaro and Assistant State's Attorney Savage, and State's Attorney, Mr. Crowe.

Q Now will you tell his Honor, Judge Caverly, what transpired there?

A And there were two stenographers there.

Q All right. Now tell what happened there in substance?

A The State's Attorney said "You have a statement there made by Nathan Leopold", and I believe Mr. Savage said, "yes", and he says, "Now, you have a statement there made by Richard Loeb", and Mr. Sbarbaro said "yes". "Now," he says, "we will have the statement of" -- Leopold's I ~~think~~ believe was the first one read. It was read by the stenographer that took it, and it was taken down by the stenographer that took Richard Loeb's statement. There was several -- the discrepancy, I won't say that, because there were several things that were mentioned in the statement made by Leopold that Loeb said was wrong, and he made some

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notes .

Q Who made some notes?

A He wanted to question him right there and the State's Attorney said, "now just make a note of that and we will talk about that after this statement is ready."

Q Now as I understand it then, Captain, as Leopold's statement was being read Loeb was making certain-- was making notes as to certain discrepancies that he said were in that statement?

A Yes.

Q Is that right?

A Yes.

Q Now those notes were introduced in evidence here this morning?

A Yes.

Q Those notes are in Loeb's own handwriting, are they?

A Yes.

Q All right. Now go ahead from there on.

A When they finished with reading Leopold's statement, Loeb questioned him as to -- the one that I remembered the most, there were several things he

on in particular that I remember about --

MR. CROWE: That will all be read.

THE WITNESS: What?

MR. CROWE: That will all be read.

THE COURT: Are there two statements?

MR. CROWE: Yes.

THE COURT: One by each?

MR. CROWE: Yes.

THE COURT: Both signed?

MR. CROWE: No.

THE COURT: Neither signed?

MR. CROWE: No, stenographic notes.

THE COURT: They are not going to deny it?

MR. DARROW: No.

THE COURT: Why get any details from him if you have it in stenographic notes written up?

MR. SMITH: I said that all we want to know is in substance what transpired there.

THE COURT: What difference does it make. You have got it in writing? Certainly he cannot give it as clearly as it was taken down at that time, after two or three months, can he?

MR. SMITH: Q What did Nathan Leopold do, if anything there at that time?

A Well when Loeb's statement was read Leopold also made notes of errors that he claimed was in the statement in reference to the part he took in this crime.

Q All right. Now after Nathan Leopold's statement was read, then what happened? After both statements were read and each man had taken notes, then what happened, if you remember?

A The state's Attorney allowed them to examine each other or to make any remarks they wished to make in regard to it.

Q Then what happened, what happened after that?

A And about eight o'clock that morning I believe we left to go to the scene of the crime.

Q When you say "we" who do you mean?

A I mean the two defendants, Assistant State's Attorney's and Police officers.

Q And where did you go, just give the Court a detailed summary of what you did from that time on as briefly as possible?

A The first stop that I made with them was at 1426 Michigan Avenue, the Rent-a-Car people, where we all got out, went in and looked for the car that they used and it wasn't there, it was out at that time. The two defendants talked with them, that they had -- or one in fact, Leopold was the one that talked with some of the men that he had met when he rented the car. From there we went over to 1352 Wabash Avenue, a cigar store and lunch room.

Q Is that Barish's cigar store?

A Yes, where Loeb said he remained while Leopold was at the Rent-a-Car people and he was there to take the telephone call, to give reference for him, so we went in there, and the woman in the place identified Loeb as the man who had been in there. At that time Loeb was taken with a sinking spell or fainted in the place and he was picked up and taken out and put in my car I think, yes, we put him in my car and sent him to a Hotel with some of the officers.

Q Do you remember what hotel that was, Captain?

A I think it was the Windermere Hotel.

Q That is at 57th and Hyde Park Boulevard?

A Yes.

Q All right, go ahead from there.

QA From there we went to 43 -- or 4236 Cottage Grove Avenue, it was a hardware store there, where we were told they bought the chisel.

Q Now at that time Loeb was not present?

A Loeb was not with us at that time?

Q Was Leopold present?

A Yes, Leopold was present.

Q All right, what transpired there?

A Well we went in there and the man said he remembered selling the chisel, cold chisel.

MR. DARROW: Haven't you got all that?

MR. SMITH: Q Well go right ahead quickly.

A Of course ~~he~~^{he} couldn't identify anybody.

MR. DARROW: Well, never mind.

A Well from there we went to a drug store at 43rd and Cottage Grove on the Northwest corner where Leopold said he went in to buy the acid.

MR. SMITH: Q Where did you go from there?

A And didn't get it there, so next he went to 45th and Cottage Grove, a drug store there, he went in

and bought the acid in that place, on the 30th of May. From there we drove over -- they showed us the play yard at 49th and Drexel, on the southeast corner of 49th and Drexel.

Q The play yard of the Harvard School?

A No, it is the play yard where the children of the neighborhood come and play, it is a big lot where they play.

Q All right.

A From there we drove over to Leopold's house at 48th and Greenwood, and Leopold went in with us, and we looked around the garage and went into the house where he handed over the pair of boots, rubber boots and the cap.

Q Now that pair of rubber boots that has been identified in this case as "People's Exhibits P and Q" those are the boots, and it can be assumed that they are marked later?

MR. DARROW: Yes.

MR. SMITH: All right.

THE WITNESS: Gortland had them and then I got them.

MR. DARROW: All right.

MR. SMITH: It is admitted that those are the boots.

THE WITNESS: So from there we went to the Hyde Park station to get the chisel, because that was where the chisel was delivered by this man Hunt, he turned it over to the Officers.

Q And where did you go from there?

A And from there we went to a bridge in Jackson Park, it a gold statue of Liberty near it there.

Q And from there where did you go?

A Leopold told us this is the bridge where he threw the keys in, and he got out of the car and took us over to what I call the southeast side of the bridge, and made a motion with his hand and said, "there is where Loeb threw the keys in."

Q All right, then what?

A From there we drove south and east to a bridge that they called the Pyramid bridge I believe, then south and east of there.

Q A pyramid bridge?

A Yes, and he said, "there is where Loeb threw the typewriter, over the southeast side of this bridge, it is right at the outer harbor."

Q Then what happened?

A I had police officers stationed there and they

remained at that spot until the typewriter was recovered.

Q And then where did you go?

A From there we drove out, according to directions Leopold gave us, out the South Short Drive, through South Chicago.

Q Did you make any stop along the lake shore front at any place?

A Yes, at 73rd and the lake he showed us, he says "pull in here and I will show you where the robe is".

Q That is the robe that was charred and introduced in evidences~~xxxx~~ here?

A He said, "this is the robe that was used to cover the boy with," and we pulled down to the foot of the street, right at the lake, and we got out of the car and he walked down under a lot of timber that was there, it might be called a pier, and down under there, along with a lot of rags and rubbish and old stumps of trees what was left of a fire, ashes, was a part of this robe, he says, "that is what is left of it there".

Q You picked up the robe at that time, did you?

A I picked the robe up and brought it in.

Q All right, then where did you go?

A It is a kind of a green-~~XXXXXX~~^{plush} thing , about a half an inch long, the plush.

Q That has been identified here. Now from there where did you go?

A From there we continued on --

THE COURT: There is no need of identifying that robe any more.

MR. SMITH: No, we are not.

THE COURT: There is no dispute and it has been identified half a dozen times.

MR. SMITH: No, we are not.

Q Go right ahead and tell us, Captain?

A Then we went south on, we went across ^d a street bridge in South Chicago, out Ewing Avenue to 106th and out 106th to Indianapolis Avenue and on Indianapolis Avenue to St. George Road, up the St. George Road, continued into Calumet, into Hammond, through that to 15th Avenue where he said to "turn to your left", we turned to the left on 15th Avenue, which would be going East, drove about two miles, and he says, "now turn to your left again on this next street".

So we turned to the left and went down past a Russian Cemetery there about a quarter of a mile and he says, "now turn to your right", and we turned to the right, and you are on a road then known as the Michigan City road, we drove along about five to eight hundred feet I should judge, and he says, "stop here". We stopped and got out and he looked around and he says, "this looks like the place." He says, "well," --"let me see." He was facing west as he was standing in the road and he says "The shoes must be on the righthand side over here some place", and he pointed over this way.

Q He had reference to Robert Franks' shoes?

A To Robert Franks' shoes.

Q Yes.

A So we immediately started to look over in that direction.

MR. DARROW: Haven't you got that in?

MR. SMITH: Well go ahead, briefly, Captain. After you got to that neighborhood what did you do?

A Well then he said the other articles, that is the belt buckle and class pin was on the south side of the road, that would be to his left looking west.

Q All right.

A So we searched the locality there for about an hour or more, and I left two squads of men there, ten men, to stay there and remain there until it got dark to see if they couldn't find that stuff.

Q And you came back to the City did you?

A I came back to the city, yes.

Q And where did you go to?

A We went to the Windermere Hotel where we went up and found Loeb lying in a bed up there.

Q What transpired at the Windermere Hotel, briefly?

A Why I was in the room with Loeb while he called his mother up.

Q You don't have to go into that. He called his mother, did he?

A He called his mother.

Q And then what transpired after that?

A We had another suite of room on the other side, that is where we left Leopold there, I left him there and took the robe and boots back to the city with me.

Q All right.

A To the Detective Bureau.

Q What happened the next day?

A These men were taken from there, to 48th and Wabash Police station. Of course I didn't take them there, but I know they were taken there.

Q Just tell me what you know about it?

A The next day was June 1st, Sunday. I met Chief Hughes at the Wabash Avenue Police Station, that is at 48th and Wabash Avenue, at ten A.M., and I also had a squad there under Sergeant Barensky.

Q All right, what did you do from there on?

A Leopold and Loeb was looked up in there. I took ~~Leopold~~^{Loeb} out and took him in my car, and Leopold was taken in Chief Hughes' car, and we were to go over the scene of the crime and the places, to find just where the clothes was buried, because Leopold said that Loeb had buried them.

Q Now, did you go over that spot again without Leopold and Loeb?

A Yes.

Q That was over about the same area that you went over

the day before with Leopold approximately?

A Yes sir.

Q Is that right, about the same?

A Yes sir. Loeb, the first stop we made after they had their breakfast was at this bridge in Jackson Park, he got out and showed me, he says, "the keys on that typewriter," or the type on the typewriter, he says "they were taken off with a pair of pliers, and he says, "when I got out I had them in my hand and I just scattered them like you would throw seed", and he says, "I don't believe you will be able to find them in there."

Q Who said that?

A Loeb.

Q All right.

A So I says "allright", and we got back into the car and we drove over to the other bridge, and I says, "now, will you show me the spot where you dropped the typewriter in, this portable typewriter", so he got out of the car and went over, and he says, " it is right about here", and he reached over and showed me right about where it was, and I had the men that

were stationed there pay particular attention to that spot so that they could tell the divers just where to look for it.

We then went on to 73rd and the Lake where Leopold got out and showed us where the robe had been found the day before.

We then drove on out to where --

Q Out the Michigan City road?
Michigan City road.

A Out the

Q Yes.

A Loeb got out of the car and he says "where did you find the shoes?" The officer that found the ~~shoes~~ shoes pointed out the spot over there in the bush. He says, "well, then the belt must be ~~right~~ right over here." We had borrowed a rake, and he says, "let me take that rake and I will see if I can't find it", so he took the rake and he raked over the ground and he says, "everybody keep back now, don't be walking on there because it makes it harder to find the place", so he worked around there for about twenty minutes I should judge, and he finally raked over some dirt and he reached down and picked

up the belt and he says, "Here is the belt." I was standing on one side of him and Chief Hughes on the other side of him at that time, and he handed the belt over to Chief Hughes. " Now", he says, "the buckle must be right over here some place," indicating a spot about five to six or seven feet east of where the belt was found, and he says "the classpin, I don't know where that is, it may be near there", but he says, "I couldn't tell you."

Q That is the belt ^{and} ~~the~~ classpin and buckle and shoes that were introduced in evidence ^{here} ~~there~~ ?

A Yes.

Q Belonging to Robert Franks in his lifetime?

A Yes.

Q Now after you left there where did you go?

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A We drove back down the Michigan City road until we came to Calumet Avenue and 15th Street where there is a red hot stand. I says, is that the red hot stand where you got the sandwich, and he says, "Yes." I says, "Well, who got the sandwich and he says "Loeb got it." I said, "Did you stay in the car?" and he says "Yes." I says, "Was the dead boy in the car too at that time?" And he says, "Yes." They got the red hot sandwich and brought it over to the car, ate it. I says, "Were you driving and he says "Yes, I was driving." "So", he says, "I drove all the time up until we came to the drug store," and I says, "Now, show me where the drug store is." I said, "Leopold didn't show it to me, you show it to me", so we drove on south down this Calumet Avenue until we came to a place called Sibley Street, where he says, "There is where I believe the drug store is."

It was a drug store on the northeast corner. He said, "I pulled around this way with the car" -- that would be facing east. He says, "Bringing my left hand side to the drug store." "I stayed here", he says, "and Leopold got out and went into the drugstore and telephone, called up", I think he said, "a couple of girls."

He came back over to the car then and he says, "Now, you push over and leave me drive, so ", he says, "that was the time Leopold took the wheel, and from Calumet Avenue and Sibley Street in Hammond Leopold drove the car."

Q Now, have you told us all --

A Well, -- let me see. Loeb took me down by the school, or this playgrounds at 49th and Drexel and told me where they stood with the car watching the children playing in the yard. They stood with the car facing south on Drexel on the west side of the boulevard. He said, from there they went over to the house and got the glasses because they could not see the boys plain enough.

Q Now, have you told us in substance, Captain, all about the trips you have made? At any time -

THE COURT: Wait a minute.

THE WITNESS: I am trying to think.

THE COURT: Well, we will take our usual ten minute recess now.

MR. SMITH: All right.

(Whereupon a short recess was taken.)

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(Whereupon pursuant to a short recess heretofore taken the following proceedings were had)

W I L L I A M S C H U M A C H E R,
resumed the stand for further direct examination by
Mr. Smith.

MR. SMITH: May we proceed, your Honor?

THE COURT: Yes.

MR. SMITH: Q Captain, after you returned to Chicago from your trip out to the Michigan City Road with Leopold and Loeb as you have testified, and came back to the State's Attorney's office, then where did you go?

A We went out into the jail yard with the two defendants, myself and the State's Attorney and some doctors, police officers, and there was an automobile there, a Willys-Knight automobile that was identified by Leopold as the car that he used on May 21st. He said there was a mark on it by which he could positively identify it. We examined the car and found that the bottom of it was covered with blood. I looked on the bottom and we removed the rug. I assisted in removing it, and also the floor boards, and brought them into the State's Attorney's office.

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Q What happened after that?

A In the presence of these doctors and the other people there --

Q Anything else happen in the yard at that time?

A There were some photographers there for newspapers and they wanted to take a picture of the defendants in the car. Loeb - or Leopold ran and got the front seat, and he says, I am going to get in here, as he says, before Loeb gets in.

Q Now, where in the car did he get first?

A He got into the front seat behind the wheel, so Loeb says, "I refuse to get in to the car."

Q And anything else said?

A I can not remember just now.

Q Did Loeb give any reasons for not wishing to get into the car?

A Well, he said that was his position in the car, was the front seat.

Q Now, Captain, I show you an automatic pistol, 33 calibre, and an automatic pistol 38 calibre, and ask you whether or not you ever saw those two guns before? They may be loaded, so be careful. Here are the boxes.

A Yes, I have my marks on them.

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Q All right, look at the other one. Here are the boxes, with the name Schumacher on them.

A Well, here is my initials, on both of them.

Q Now, did you ever have any conversation with either one of the defendants with reference to these automatic pistols?

A Yes, I talked to both of them.

Q And did you have any specific conversation with Leopold with reference to these automatic pistols?

A Yes, sir.

Q When.

A On June 2nd, in the morning.

Q What day was that, June 2nd, if you remember?

A Monday morning.

Q Monday morning. That was the day after you had taken your trip to the Michigan City road, and the day after the automobile was identified in the yard?

A Yes.

Q And what did he say to you in reference to these pistols?

A I asked him where I could find these guns they used or had with them on the night of May 21st, and he said I would find them at his home.

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Q Did he tell you where?

A He told me where, yes. He told me there was one belonged to him and one belonged to his brother. He said you will find mine in one dresser and my brother's in the other dresser. The dressers are in the same room

Q All right. Now, did you go out there?

A I went there with Sergeant Cortland and a man named Ballinger, I think, and he took me up to the room and was there when we found the guns.

Q Now, were these ^{the} two guns you found up there, Captain?

A Yes, sir.

Q And the holsters?

A Yes, sir. They were loaded.

MR. SMITH: I offer these in evidence at this time, if the Court please, as State's Exhibits 123 and 124.

Any objection?

MR. B. BACHRACH: No objection.

MR. SAVAGE: They are in.

MR. SMITH: No.

Q Are these the cartridges?

A Yes.

MR. SMITH: We might also put these in evidence, as

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(Marked as requested by counsel.)

MR. SMITH: Cross examine.

THE COURT: Any cross examination?

MR. B. BACHRACH: No cross examination.

MR. DARROW: No cross. Pardon me.

MR. GROWE: Now, call Mr. Allen.

(Witness excused.)

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E M A L L E N,

a witness called on behalf of the People, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By
Mr. Crowe.

Q What is your name?

A E M Allen.

Q And where do you live?

A 4555 Grand Boulevard.

Q What is your occupation?

A Court reporter.

Q Been a court reporter for how long?

A Eighteen years.

Q And you can take down accurately --

MR. DARROW: We will admit that.

MR. CROWE: -- statements, read them and transcribe them.

A Yes, sir.

Q You are employed by the State's Attorney's office?

A Yes, sir.

Q Did you take a statement of the defendant, Richard Loeb, in the State's Attorney's office on the morning of May 30th, Decoration Day morning?

A Yes, sir.

Q Have you got your notes with you?

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A Yes.

Q And was the defendant Richard Loeb present?

A The defendant Richard Loeb was there, yes, sir.

Q Now, will you read the questions and answers, all of them, that were made at that time?

A He was asked by the State's Attorney, Mr. Crowe,

"Q Now, Loeb, you told me that Wednesday, you drove down town Wednesday, the 25th, you drove down town with this young fellow Leopold, in his car. That is a sport model, it is a red car with a tan top, Willys-Knight?

"A Yes.

"Q You left the school around eleven o'clock or some time after eleven, between eleven and noon, that you had rented --

MR. CROWE: That you had lunch.

"Q -- that you had lunch at the grill room in Marshall Field's.

"A Yes, sir.

"Q Yes or no?

"A Yes, sir.

"Q Then you went out to Lincoln Park?

"A Yes, sir.

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"Q And all the driving you did that day was in this car?

"A Yes, sir.

"Q You did not have a car yourself, did you?

"A No.

"Q You did not drive any that day?

"A No, sir.

"Q Have you got a car in your family that is a weather beaten green?

"A Well, my mother has a Cadillac, yes, sir.

"Q A Cadillac, and that is a sort of a green?

"A Yes.

"Q Isn't it a fact that shortly after one o'clock P M you drove up in that Cadillac, you drove it and Leopold driving the red car drove the car to his garage and you had --

MR. CROWE: You saw the man.

" -- you saw the man that just went out, yes or no?

"A Yes.

"Q Who was he?

"A Pardon me, yes was to your question about had the man gone out.

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"A He is Leopold's --

MR. CROWE: Chauffeur.

"A He is Leopold's chauffeur.

"Q Now, isn't it a fact, Wednesday, May 21st, some time between one and a quarter after one you drove up to the garage, to Leopold's garage, you driving your mother's car, that green Cadillac, he driving the Loeb car, and that he said to the chauffeur --

MR. CROWE: The red car.

"Q -- he driving the red car, and that he said to the chauffeur the brakes squeak so much here I want you to fix them. He says I can put some oil on them and you can --

MR. CROWE: Use the emergency.

"Q -- you can use the emergency and if you are careful you will not run into anybody. He said I'll not run -- He said I would rather -- I would rather run into somebody than have that bad squeak, and he turned the car over to the chauffeur and got into your car and drove away?

"A No.

"Q That is not a fact?

"A No.

"Q If this chauffeur says so he is a liar?

"A Yes.

MR. CROWE: Although.

"Q Although he has a particular reason for remembering?

"A It is not a fact.

"Q The chauffeur took the car and --

MR. CROWE: Oiled.

"Q -- if the chauffeur took the car and oiled it up, oiled the brakes and fixed it up that would make the impression -- make an impression on his mind would it not?

"A Yes.

"Q If he says that is a fact he is a liar or mistaken?

"A I didn't get that.

"Q He is a liar or mistaken?

"A Yes.

"Q Then if he has an additional reason for remembering the particular day what would you say to that?

"A I would say he was still a liar or mistaken.

"Q Didn't you boys come back then somewhere around ten o'clock in the evening and take that red car

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car out.

"A When is --

MR. CROWE: When is all this?

"A -- when is all this?

"Q Wednesday, May 21st, the day this boy disappeared, that is not true?

"A No.

"Q The chauffeur is mistaken?

"A Yes.

"Q Did you and Leopold -- do you and Leopold belong to the same fraternity?

"A No.

"Q You are not fraternity brothers?

"A No.

"Q Did I ask you last night about the letter he wrote you in which he said --

MR. CROWE: Now wait a minute. Just read that part to the three reporters.

"Q Did I ask you last night about the letter he wrote you in which he said it would not do for cock suckers to fall out?

"A Yes, sir.

MR. B. BACHERACH: That is all there is of that, isn't it?

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MR. ALLEN: (Reporter) No, some more.

"Q What significance do you attach to that?

"A The fact that he wanted to say, that a rumor had gotten around that he was a cock sucker.

"Q What difference would that make if there had been a rumor he had been a cock sucker and he had fallen out -- and your talking to him, what difference would that make?

"A We did everything in our power to avoid any possible scandal in regard to that thing for two years, since it happened; that was three years ago, when this rumor started, and for two years we were very careful never to be alone together in public, seen together any place or to be alone together any place, where we could be seen. We were careful so when we wanted to go to a theatre on a particular evening we would be careful to have somebody else come along, purely and simply on the advice of my brother who had told me to be careful and to -- not to see too much of Leopold, and if I did to be sure there was somebody else around.

"Q Wasn't that an intolezable condition to exist, two fellows that were very friendly and

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wanted to be together and could not be together without the world suspecting they were cock suckers. And you had to have a chaperon all the time?

A No, it was not necessary.

"Q Wouldn't it be much better if you broke off, saying now listen, there is a lot of suspicion as to our relations here, you better go your way and I will go mine and stop; all this talk and let us forget it.

"A We never did that, but for quite a while there we saw very little of each other. It is just due to the fact that this here -- that we were going to the University of Chicago and that we were together a great deal and that there was much more conversation.

MR. CROWE: Any cross examination?

MR. B. BACHRACH: No.

MR. CROWE: Now, will you get a statement made, -- the statement made by Leopold, Nathan Leopold, Jr., the defendant in this case.

A Yes, sir. Yes, sir, Leopold made a statement --

MR. CROWE: Wait a moment, until I find it here. All right,

16 one thirty five A M, is that right?

A Yes, sir.

Q And who was present at the time?

A There was present Robert E. Crowe, State's Attorney, Joseph E. Savage, Assistant State's Attorney, Mr. Milton Smith, Assistant State's Attorney, Mr. Michael Hughes, Chief of Detectives of the Detective Bureau.

Q Yourself and Nathan Leopold, Jr.?

A Yes, sir, and Samuel Ettelson.

Q And Leopold, Jr. and yourself?

A Yes, sir.

Q Now, will you read what was said.

A Judge Crowe asked the questions.

"Q What is your name?

"A Nathan F. Leopold, Jr.

"Q Where do you live?

"A 4754 Greenwood Avenue.

"Q How old are you?

"A Nineteen.

"Q You were nineteen when?

"A 19th of February.

"Q You were born where?

"A Chicago.

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"Q Who is your father?

"A Nathan F. Leopold.

"Q What is his business?

"A He is president of the Morris Paper House.

"Q How many brothers in your family?

"A I have two brothers and a cousin who makes his home with us.

"Q Your two brothers live with you?

"A Yes, sir.

"Q Have you any other brothers or sisters?

"A No, sir.

"Q Your mother is dead?

"A Yes, sir.

"Q What are your brothers' names?

"A Foreman M. and Samuel M.

"Q And they are both older than you?

"A Yes, sir.

"Q And both in business?

"A Yes, sir.

"Q What schools have you gone to?

"A The Spade School.

"Q What age did you start to school?

"A At the age of six, went to the Spade School.

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At the age of eight I transferred to the Douglas School.

"Q That is a public school?

"A Public school. I will have to figure this out.

At eleven I attended the Harvard School.

"Q The Harvard School is located where?

"A 3731 Ellis, it was at that time I first started.

When I first started it was located at the corner of 37th and Drexel.

"Q For how long a time did you go to the Harvard School?

"A Until I was fifteen years old.

" MR. CROWE: That is five years.

"A That is five years.

"Q Are you acquainted with any of the present instructors?

"A Yes, sir.

"Q Name some of them you are acquainted with?

"A Mr. Mott Kirk Mitchell, Mr. Charles Pence, George Baubel.

"Q Do you know Wilson?

"A No, sir.

"Q Or Williams?

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"A No, sir.

"Q They came --

MR. CROWE: After you left.

"Q -- after you left?

"A Yes, sir.

"Q What Mitchell -- Mitchell occupies what position there?

"A Assistant Principal and Professor of English.

"Q He was a teacher of yours at one time?

"A Yes, sir.

"Q What did he teach, English?

"A Yes, sir.

"Q What else?

"A That is all.

"Q When was the last time you saw him?

"A The last time I saw Mr. Mitchell was last Thursday.

"Q And where?

"A On Ellis Avenue just south of 47th Street.

"Q And did you have a talk with him?

"A Yes, sir.

"Q What was the conversation?

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"A Mr. Mitchell said after the greeting formalities, Mr. Mitchell said that he heard about the Franks -- Mr. Mitchell said 'Have you heard about the Franks boy?' I said, 'No.' He said, 'Do you know him', and I said 'No.' He said 'Robert Franks' and I said 'No'. I asked if he were a student of Harvard and he said 'Yes.' He said 'He had been kidnapped the day before and the rumor now was that he was murdered --

MR. CROWE: That his murdered body.

"A -- that his murdered body had been found --

That he himself would not believe it until the --

MR. CROWE: He actually saw the body.

"A -- until he actually saw the body.

"Q What time of day was that?

"A It was about five fifteen or five thirty.

"Q Have you heard anything about the Franks matter up to that time?

"A No, sir.

"Q Up to the time you had heard nothing about the Franks matter?

"A No, sir.

"Q And you did not know Robert Franks?

"A No, sir.

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"Q Did you know his brother?

"A No sir.

"Q Do you know his father?

"A No, sir.

"Q Did you know any of the family?

"A Yes, sir.

"Q Did you know where they lived?

"A Did I know where they lived?

"Q Yes.

"A I don't believe so.

"Q Do you know now where they live?

"A Yes, sir.

"Q How far is it from where you live?

"A It is four blocks.

"Q How far did you live from the school?

"A A block and a half.

"Q A block and a half away from the school?

"A Yes, sir.

"Q Do you know a number of pupils that go to the school?

"A Yes, sir.

"Q How did he look when he left, how did he impress you?

"A My judgment is formed from opinions by what I have heard since, but my impression is that he looked rather worried, that his color was not as good as usual and his face looked longer than usual.

"Q And you attributed -- had you attributed that fact to --

MR. CROWE: And you attributed that to what, if anything?

"Q -- and you attributed that to what, if anything?

"A At the time?

"Q At the time?

"A The fact that one of the pupils of his school had been murdered.

"Q After you left the Harvard School where did you go?

"A After I left the Harvard School I attended the University of Chicago.

"Q And you entered there in what year?

"A Entered there October 1st, 1920.

"Q In the freshman class?

"A Yes, sir.

"Q You took the --

MR. CROWE: Liberal arts.

"Q -- you took the liberal arts course?

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"A Yes, sir.

"Q Did you graduate?

"A Yes, sir, but I had attended a university before that. I was at the University of Chicago untill1921 to '22; no, I beg your pardon, 1920 to '21. I attended the University of Michigan 1921 to '23, and attended the University of Chicago again in the year 1923 and '23, and graduated March 20th, 1923. I continued there as a post graduate until June and started this last October, '24, as a freshman.

MR. CROWE: '23.

"A Yes, 1923 --

MR. CROWE: Last October, 1923.

"A -- last October, 1923, as a fres of the University of Chicago law school.

"Q When you graduated at the Chicago University you received the degree of --

"A Ph. D. Bachelor of Philosophy.

"Q And the post graduate you took was --

MR. CROWE: Along what lines?

"Q -- was along what lines?

"A Comparative philology.

"Q What does that mean to the average citizen who is not a college man?

"A Study of comparative languages.

"Q You spent a considerable portion of your student days in studying the various languages?

"A Yes, sir.

"Q How many languages have you studied?

"A Fifteen.

"Q Can you name them?

"A Yes, sir, English, German, French, Italian, Spanish, Modern Greek, Russian, Hawaiian, Latin, Ancient Greek, Sanscript, popular Latin, and Hellenic Greek.

"Q What is popular Latin?

"A Popular Latin otherwise known as vulgar Latin is a Latin that was a speech of the common Popes of the 4th and 5th Centuries, A. D. in the study of advanced languages.

"Q And revival of Gaelic here. You do not speak Gaelic?

"A No, I did not have time. I discussed the matter with our Irish maid. Oscar Umbrian.

"Q What kind of a language is that?

"A Early dialect, Italian.

"Q Are the Italian dialects of language.

"A Are the dialects -- early dialect, dialects of languages that have become obsolete in the early days.

"Q In the Middle Ages?

"A In the Middle Ages, yes.

"Q Did you have any advice in discussing those languages?

"A My father thought I was young enough to study just exactly what I pleased, and that was my choice.

"Q How many of these languages can you speak --

MR. CROWE: Can you speak more or less fluently?

"A About five.

"Q And what are those?

"A English, German, French, Italian, Spanish and Modern Greek. Well, not so much. I can order a beefsteak in any Greek restaurant.

"Q In most of the others you can read and write?

"A No, I would not say that I can read and write in all of them, especially Russian and Sanscript without very much difficulty.

"Q Have you any line of study that you have

studied?

"A Yes, sir, Ornithology.

"Q That is the science of birds?

"A Science of birds.

"Q When did you first take that up?

"A 1905 when I was five years old.

"Q You have more or less of a study of it ever since then?

"A Yes, sir.

"Q Have you done anything beyond studying it? Have you put it into practical use?

"A You mean have I published some of it?

"Q No have you put it to any practical use. Have you taught?

"A Yes, I have taught and written.

"Q When did you begin to teach?

"A Began to teach in the spring of 1921.

"Q And you have various classes?

"A Yes, sir.

"Q What is the course of instruction, what do you do?

"A With my children it is pure descriptive field for ornithology, which means taking the kids out,

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teaching methods of observation, and teaching them what to look for in birds --

MR. CROWE: Familiarizing them with the species.

"A -- familiarizing them with the species.

MR. CROWE: And birds which are common.

"A -- birds which are common here, which is about ninety per cent, but now and then give them a little talk, which you might call technical science, as much as might be called classification of birds, called taxonomy.

"Q You have three different classes now?

"A Yes, sir.

"Q Classes of children?

"A Yes, sir, two classes of children, and one --

MR. CROWE: Of ladies.

"Q -- and one of ladies.

"A One of ladies.

"Q The ladies are all married ladies?

"A Without exception.

"Q Is there any significance in that, I mean the fact that they are all married?

"A Merely that the ladies are of a certain age.

One gets classes by getting different groups of friends, of course.

28 MR. CROWE: Unmarried ladies.

"A -- groups of friends, and of course the unmarried ladies would not go around with the married ladies. I think my youngest student is considerably over thirty five.

"Q There is nothing significant in the fact that they are all married women?

"A No, sir.

"Q There is nothing in the course of instruction?

"A No, some of them bring their daughters along and my helper is an unmarried girl.

"Q Do you know where the body of the Franks boy was found?

"A Yes, sir.

"Q Where?

"A It was found as I understand it under the railroad embankment of the Pennsylvania tracks and stuck into a drain pipe at the --

MR. CROWE: Location.

"A -- at the location of about 118th Street, if it were extended. I would not know the name of the street that goes north and south.

"Q Are you familiar with that particular spot?

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"A Yes, sir.

"Q How long have you been familiar with it?

"A Since 1916.

"Q Tell how you happened to go out there in the first place?

"A 1916 was the first year I was taking up the study of distinctive ornithology."

MR. CROWE: Descriptive.

"A -- descriptive ornithology. I started my classes, as I said, at five but I never was much interested in field study until that time. At that time there was one student of the Harvard School by the name of Luke McKenzie, who was a friend of my older brother, and who was quite an expert, a man who went to the Hyde Park High School, Mr. Sydney Stein, Jr. who was very kind in instructing me, allowing me to go with him very often, and we used to go to the park -- we used to go to the park very much and occasionally take an old --

MR. CROWE: All day trip.

"A -- occasionally take an all day trip to one of several places, of which the Calumet swamp district

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in general was one.

"Q And you were quite familiar?

"A The area around there.

"Q The way around the place -- the area around the place where this body was found?

"A Yes, sir.

"Q The body was found there Thursday of last week?

"A Yes, sir.

"Q When was the last time prior to yesterday that you had visited that particular spot?

"A Sunday, May 18th.

"Q When had you visited that particular spot prior to Sunday, May 18th?

"A Saturday, May 17th.

"Q Prior to that, ^A about half a dozen occasions during the year, which I could not definitely place further than to say one would have been earlier in May and one in April, possibly in March.

"Q Do you remember what kind of a --

MR. CROWE: Do you remember your visit there Saturday.

"Q Do you remember your visit there Saturday?

"A Yes, sir.

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"Q Prior to the finding of the body?

"A I do.

"Q Tell us about that visit?

"A I am not positive whether we went out just before lunch or just after, but it was either at eleven or eleven thirty., and about one o'clock in the afternoon Mr. George Lewis and I went in my car. Do you want the route?

"Q Yes, go on.

"A May I take my house for a starting point?

"Q Yes.

"A From our house out on Greenwood to Hyde Park, Hyde Park east to where it turns at the Chicago Beach Hotel and out through Jackson Park along the South Shore Drive to 83rd Street; 83rd Street east, but I don't know the name of the Street, but this main highway south again over to 92nd Street bridge at Ewing Avenue, then to 106th, 106th north to Avenue G, Avenue G south to 108th, 108th east to Avenue G.

MR. CROWE: F.

"A -- Avenue F." I should say. "At Avenue F, to 108th, went south over two automobile tracks, and across the track that I have since found out

was the Pennsylvania. **XX**

MR. CROWE: And through the Forest Preserves.

"A -- And through the Forest Preserves out to a point perhaps fifty feet south and west of a shack belonging to a Mr. May, who has been held in connection with this case. We had stopped in the Forest Preserve and made numerous observations along near --

MR. CROWE: Home of the Forest Preserve Warden.

"A -- numerous observations along near the home of the Forest Preserve Warden which is north of Agers Station. We then went out in the car to this point which I am speaking about. We first went east over a little road that leads to Wolf Lake on the swamp to observe the various birds there and on the way back a point say two hundred yards east of the Chicago --

MR. CROWE: If your Honor please, it is pretty hot. We are all very hot and tired.

MR. OW: Give him a chance to read it, maybe he can read it faster tomorrow.

MR. CROWE: He has a lot of reading and I suggest if he gets an opportunity to run through he can save time in the

33 morning.

THE COURT: All right. Kindly look it over before you come in the morning. We will suspend now until ten o'clock tomorrow morning.

MR. GROWE: I would like to tell Mr. Darrow and Mr. Bachrach and your Honor that we will finish tomorrow morning.

MR. DARROW: If you do we will ask to go on the following morning.

MR. GROWE: Of course, when I say in the morning I assume the stenographers will be able to read.

THE COURT: He says he would not care to go on until the next day.

MR. DARROW: No.

(Whereupon an adjournment was taken until
Tuesday, July 29th, A. D. 1924, at the
hour of ten o'clock A. M.)

- - - - -

Tuesday, July 29th, 1924,

10:00 o'clock A.M.

Court convened Tuesday, July 29th, 1924
at 10:00 o'clock A.M. pursuant to
adjournment heretofore taken.

Present: Same as before.

E. M. A L L E N,

resumed the stand as a witness in behalf of the prosecution and being further examined in chief by Mr. Crowe, testified as follows:

Q Now in your reading there go along slow and when I indicate that you should stop you can read it to the reporters here and the Court and the Attorneys for the defense?

A Yes sir.

Q But not in a loud tone of voice?

A Yes sir.

Q Do you know what page we were on when we stopped?

A I left off yesterday where --

Q Just a minute.

A The last words, I can give you the last words?

Q Well just a minute until I locate it on mine.

THE COURT: That is not a moving camera you have got there, is it?

NEWSPAPER MAN: No, Judge.

MR. CROWE: Q We were out at the culvert, were we not?

A Some place along in the swamp where they were looking for birds. The last words that I read was, "We first went east over a little road that leads between Wolf Lake and the Swamp".

Q Weren't you just through reading, "From our house out on Greenwood to Hyde Park"? Can you find that question or answer, "from Hyde Park East to where it turned at the Chicago Beach Hotel out to Jackson Park along the South Shore Drive, 83rd Street"?

A I got beyond there, Judge. I got quite a bit beyond there. I think if I were to read you a question you would get it?

Q All right, you go ahead and I will get it. Go ahead and read?

A The nearest question to that is, I find there

he says, "Yes, go on, " then "May I take my house for a starting point"? "Q Yes." That is near where you indicated.

Q All right, you go ahead and read from there on, will you?

A "A Well we went out on Greenwood to Hyde Park, from Hyde Park East to where it turns at the Chicago Beach Hotel, out through Jackson Park along the South Shore Drive to 83rd Street, 83rd Street east to, I don't know the name of the street, but it is a main highway, south again over the 90th street bridge at Ewing Avenue to 106th, 106th north to Avenue G, Avenue G south to 108th, 108th east to Avenue F, Avenue F to 108th, went south into automobiles and across the track, which I have since found out was the Pennsylvania, out to a point perhaps fifty feet south and west to a shack belonging to Mr. May, who has been held in connection with this case, we went south in the Forest Preserve and made numerous observations along there near the home of the Forest Preserve Warden, which is north of Eggers

"station, we then went out in the car to this point of which I am speaking, we first went east over a little road that leads between Wolf Lake and a swamp to observe various birds there, and on the way" --

MR. CROWE: Just a moment. If your Honor please, right at this point I have a map that I might introduce, it is a chart. Have you any objection?

MR. BACHRACH: None.

MR. CROWE: Well, then, by agreement.

THE COURT: Very well.

MR. SAVAGE: Shall I mark this? What is the last number Mr. Smith?

MR. SMITH: This will be 137.

MR. CROWE: Let the record show that by the consent of the counsel and the defendants the chart is introduced.

(Whereupon the chart was here marked People's Exhibit 37).

THE COURT: All right.

MR. CROWE: All right, go ahead.

A "On the way back, a point say two thousand yards east of the shack of Mr. May, I noticed three

"birds which are very unusual in this area, (Phalarope'. Inasmuch as the bird was very unusual I wished to take a specimen for my collection, and left Mr. Lewis to watch the birds and myself ran to the shack. I asked Mr. May, whose name I didn't at that time know, but I since found out, through the papers, stating that I had seen these birds, whether he had a gun that he could loan me and a pair of boots, inasmuch as I didn't take my boots, and I had a ten-gaugeshotgun -- now, was it a twelve gauge shotgun? I had considerable difficulty in locating any shells. Finally I found some, and the time I was ready to start out Lewis came running up and said that the birds had flown west over the railroad track into Hyde Lake." --

MR. CROWE: Just a minute.

A " -- so we ran over the railroad track" --

MR. CROWE: Just a minute. It has been suggested by counsel for the defense, that this being in transcript form, we might make a little progress by reading it from the typewriting.

THE COURT: Yes, I think so . You only want it for the record anyhow?

MR. CROWE: That is all.

THE COURT: And I can read this.

MR. CROWE: And I will go ahead and read it into the record now, if it is ~~amkik~~ agreeable to both counsel and the defendants for me to read this?

MR. DARROW: Yes.

MR. CROWE: Q You transcribed these notes?

A Yes sir.

Q And this is the transcript that I hold?

A Yes sir.

Q And it is correct?

A Yes sir.

MR. CROWE: Well then if your Honorplease I will go ahead and read this.

THE COURT: All right.

MR. BACHRACH: You don't mind my standing up and following you?

MR. CROWE: No, come right alongside of me.

Whereupon Mr. Crowe here read in the words and figures as follows:

"He gave me the boots and a ten gauge shotgun -- now, was it a twelve gauge shotgun? I had considerable difficulty in locating any shells. Finally I found some, and the time I was getting ready to start out Mr. Lewis came running up and said that the bird had flown west over the railroad track into Hyde Lake, so we both ran over the railroad track into Hyde Lake, crossed on a little log which crosses a little channel there, and after circling around for some time in the swamp got up to the birds again and I fired three shots at them, missing them like a tenderfoot. The fourth shell jammed on me and the bird flew away. I looked around for them for some time and then returned to the car, returned Mr. May's gun and his boots, then proceeded south over a little prairie as far as the next farm house, I don't know the owner, out there next Hegswich. We got stuck two or three times in the mud, so that Mr. Lewis had to get out and push, and finally

"got through. We looked around for birds there for a few minutes, then turned around and came back that same direction home.

Q Now, was your attention at any time ever particularly directed to the drain where this body was found, prior to the time the body was found there?

A No sir.

Q I mean did you ever particularly notice the drain?

A Particularly notice? I knew that the little slow drain through there, I didn't know how it drained through, though, I never particularly noticed.

Q But you are familiar with the drain at that particular spot where the body was found?

A Yes sir. I didn't know that there was a pipe there. I knew that this little channel flowed from one side of the track to the other. I knew of course just where it went under, but I never bothered to investigate to see how it got under there.

"Q What experience did you have at that particular spot Sunday?

A Sunday?

"Q That is, when I say that particular spot I mean the drain where the body was found?

A At the very end of our birding day, which had lasted from five in the morning until about seven thirty at night, in other words I should say about seven thirty, we had again parked our car at the same place near the shack. Again Mr. Lewis and I, we had had a third member in the party, Mr. Sidney Stein, Junior.

Q What Stein is that, Sidney Stein, Jr.?

A His father was a lawyer, Sidney Stein, also.

Q Stein & Blatt?

A I couldn't say.

MR. SMITH: This was originally Stein & Blatt. Sidney Stein was a master in Chancery.

MR. CROWE: I want you to tell how this particular spot was noticed by you that Sunday?

"A It was not particularly noticed by me that Sunday. My attention was not directed particularly to it. I suppose if you would ask me, do I know there is a drain there, I may have known there is, but I didn't particularly notice it in any way. I must have been within a few feet of it, because as I say, at seven thirty after parking our car some place and going east almost to the Indiana Line, we got up ^{on} the railroad track and tried to see some ducks which we thought might be in Hyde Lake, and the sun was so low in the west that it made it almost impossible to see at that angle."

MR. CROWE: Will you go ahead from there?

MR. BACHRACH: I would rather not. Well, I don't care. Where are you now?

Whereupon Mr. Bachrach here read in the words and figures as follows:

"I should say that I passed right over it, probably about on a level with it. I was as near as, I couldn't exactly say, I should say

"probably within ten or twenty feet of it anyhow, and Sunday was the same, because a path leads right almost from the drain."

"Q Have you ever heard any stories about -- "

MR. BACHRACH: I wont read that.

MR. CROWE: Just read that to the stenographers.

Whereupon Mr. Bachrach here read into the record, in a low tone of voice to the stenographers, the words and figures as follows:

"Q Have you ever heard any stories about Mitchell being queer?

A Not definitely, no.

Q Well, rumors?

A I have heard some wild rumors, yes.

Q By queer you mean what?

A I mean sexual pervert.

Q And for how long have those rumors been floating around, to your knowledge?

A Ever since I can remember, almost.

Q You have no knowledge as to whether or not the rumors are true?

"A No sir."

Whereupon Mr. Bachrach here continued to read into the record in the words and figures as follows:

"Q To your knowledge of where this body was found, do you believe a person who had no knowledge of that territory at all would be able to find it at night?

A I should think it extremely unlikely.

Q In other words, a man who would take the body to conceal it there, in your judgment, would be a person who knew something about the location of it prior to that time?

A Probably.

Q Do you wear glasses?

A No sir.

Q Have you ever worn glasses?

A Yes sir.

Q When did you first wear glasses?

A In October or November, 1923.

Q What is the occasion of your getting a

"pair of glasses.

A I had been suffering from a little nervous headache which I thought might be attributable to ~~xxxxxx~~ eye strain from the amount of reading I had been doing in pursuance of my studies. I went down to see Dr. Emil Deutsch and he prescribed glasses for me.

Q That is --

A 30 North Michigan.

Q Where did you have the prescription filled?

A Almer Coe & Company.

Q How many pairs of glasses have you bought?

A One.

Q That pair was bought from --

A Almer Coe & Company, on the prescription of Dr. Deutsch.

Q Describe as best you can the pair of glasses that you bought?

A They were big tortoise shell spectacles rather weak, that is as much as I can describe them. Is there anything you could suggest?

Q No, just your description. And you wore those glasses when you read?

"A Yes sir.

Q You didn't wear them for sight?

A No sir.

Q When did you stop wearing them?

A I think it was about in February, it might have been March.

Q And from that time on you have no recollection of having worn these glasses?

A No sir.

Q When did you first talk to me?

A About three five this afternoon, yesterday afternoon.

Q That is Thursday afternoon?

A That is right, Thursday afternoon.

Q You had seen me in the Hotel room?

A Yes.

Q You have^{n't} been with me since that time?

A No sir.

Q You passed out of the room and back again?

A I made one trip to my home.

Q At the time I first talked with you I asked you some questions about the glasses and you told me you had but one pair, and had worn them

"for two or three months?

A Yes sir.

Q And you didn't know whether you had them home or not?

A I said very probably I did.

Q The chances were ninety out of a hundred that you had them home?

A Yes sir.

Q You wouldn't be a bit surprised if the glasses found near the body were your glasses?

A I don't remember that statement.

Q After talking to me I suggested you go and make a search for your glasses?

A Yes sir.

Q You made that search?

A Yes sir.

Q You have been unable to find them?

A Yes sir.

Q You have seen the glasses that have been found near the body?

A Yes sir.

Q Where are those glasses? I showed them

Q Do you before you went home and when you came back?

A Yes sir.

Q I will ask you to look at these glasses. What is your judgment as to whether those are your glasses or not?

A I should think they were.

(The glasses were marked for identification with a notch on the nose piece between the two lenses).

Q You say these are your glasses?

A Yes sir.

Q Was that the case the glasses came in?

A Yes sir.

Q When you wore these glasses ~~you~~ were ^{you} more or less nervous?

A No sir.

Q Have you a habit of biting the ends in them?

A I may have, but not consciously.

(The glasses were marked for identification by a cross, across the outside of the case).

QQ The case I show you" --

THE COURT: Everybody will have to get outside. Everybody who is not seated will have to leave the court room. Tell the door keeper to come in here, will you please? Will you go and bring him in, Mr. Sheriff, the door-keeper?

Now, Mr. Doorkeeper, you will have to see that everybody who is not seated leaves the courtroom, and don't let anyone in when there isn't a seat for them. You don't want me to take any harsh advantage of you? Now don't let anybody in, and if anybody brings in people with them they must be here on time, and once the room is filled, don't permit anybody else to come in except those with press cards, and if those come in late you can keep them out if you wish to. They have a right to be on time the same as anybody else.

Now once the room is filled I don't want any more people to come in. Now, please don't let them in.

THE DOORKEEPER: I wont.

MR. BACHRACH: Shall I proceed your Honor?

THE COURT: So ahead.

MR. BACHRACH: "The case I show you is the case the
glasses came in?"

A Yes.

Q Have you any idea how those glasses happened to be found at the scend of the crime?

A They probably dropped out of my pocket in which I must have been carrying them, either Saturday or sunday, May 17th or May 18th.

Q You change your clothes many times?

A Yes sir.

Q How many suits of clothes have you got?

A Eight.

Q How many do you wear, how many different suits do you wear when you are at home?

A Five.

Q You are in the habit of frequently sending these clothes to the tailor?

A Not my bird clothes, no.

Q Do you sent those?

A Yes.

Q About how often?

A It depends on how badly they need it.

I don't stop to figure, to think of what suit I

wore the last time, and I take the first suit that

"is handy, and I may send the suit to the cleaner after each time that I have worn it, or I might be at home for months without it being sent to the cleaner.

Q Have you a better suit for birding, or just an old suit?

A Just an old suit, four or five of them.

Q If you put your glasses in your pocket you would put them in what pocket?

A My left breast pocket.

Q Left breast pocket?

A Left breast coat pocket, or possibly left vest pocket.

Q Which generally would you do?

A Generally I would put them in my coat. "

THE WITNESS: Vest pocket?

MR. BACHRACH: Yes.

THE WITNESS: That is not right.

MR. BRACHRACH: I have read it correctly here?

MR. CROWE: Yes, breast pocket, or possibly vest pocket.

MR. BRACHRACH: It should be breast?

MR. CROWE: You have both here.

MR. BACHRACH: (Reading)

" Q Did you stumble or fall at this particular spot at any time?

A I don't remember.

Q You don't remember that?

A No sir.

Q Will you put those in your left breast coat pocket and run and bend and see whether they will drop out?

(Whereupon Mr. Leopold did as requested)

Q Now you have fallen to the floor twice.

A Yes.

Q The glasses are still in your pocket?

A Yessir.

Q You don't recollect of having fell at any time Saturday or Sunday?

A No sir.

Q And you have a fairly good memory?

A I wouldn't swear to that. You mean ordinarily?

Q Ordinarily, yes.?

"Q You went through, ~~this~~ this afternoon, several experiments of that sort, falling, to see if the glasses would drop out, and they did not?

A Yes.

Q And you dropped to the floor both times?

A Yes sir.

Q And the glasses didn't drop out at that time?

A No sir. May I add that Saturday, you must remember that I had a pair of large rubber boots that didn't fit me, and therefore the probability of my stumbling was greater than if I had been just normal.

Q You had a gun in your hand?

A Yes sir.

Q You don't remember falling?

A No sir.

Q When after the body was found did you visit the drain where the body was found?

A Never.

Q When after the body was found did you visit the immediate vicinity?

A Never.

Q How near have you been to the immediate vicinity after the body was found?

A 113th Street and Ewing Avenue.

Q And when?

A Sunday morning, May -- last Sunday.

MR. SAVAGE: The 25th?

A May 25th, just so.

Q What was the occasion of your going out there that time?

A I was examined by Captain of Police Wolf at that station?

Q What did Wolf ask you?

A Probably asked me whether I had visited that particular area and under what circumstances; what other ornitologists or hunter or people generally I mean that had visited that area, particularly what students of Harvard School were interested in birds that might have visited that area, and what teachers in Harvard School had ever been at that area with me; whether any of the people that I knew wore glasses;

"Whether the Franks boy was, to my knowledge, interested in ornithology or fishing.

Q What did you tell him?

A I told him that I had frequently visited the area since 1916, that I had been there as recently as Saturday and Sunday, May 17th and 18th; that a great many people whom I knew had visited the area in quest of birds, gave him some names that I remember of the students at Harvard School that I knew were interested in birds, and that no teacher had, to my knowledge ever been to the area, which, by the way, I have since told you is incorrect. I do remember being out there once with a teacher at the Harvard School.

Q What teacher was that?

A Mr. George F. Vogel, May 1st, 1920, and that to my knowledge the Franks boy was not interested in ornithology, and I ~~was~~ probably would have known had he been so interested, inasmuch as I knew most of the boys at the school that were interested, having them for

Q The first time you heard of the Franks case was when you talked to Mitchell?

A Yes sir.

Q That was Thursday around between five and six?

A Yes sir.

Q Had you read anything up to that time?

A No sir.

Q From that time on did you read anything about it in the newspapers?

A Yes sir.

Q When did you first read anything?

A About ten to fifteen minutes after ~~leaving~~ ^{leaving} ~~leaving~~ Mr. Mitchell, there were some newsboys selling extra papers on the corner of 48th and Ellis. I purchased one, took it home and went into the house. My aunt -- do you want her name?

Q Mrs. Schwab?

A Mrs. Schwab, I asked her whether she knew these people, inasmuch as they were neighbors and I thought she would read of the case then.

Q Did you read anything Friday?

Q Yes sir.

Q In what paper?

A I think I had the Tribune and Examiner in the morning, and I got an American and a post in the evening.

Q And Saturday?

A Saturday the same.

Q Sunday you were called in on the matter?

A Sunday I hadn't a chance to read the papers, inasmuch as they at least came to get me while I was still in bed, and I recall I hurried to eat breakfast.

Q And from that time you have read?

A Everything I could find.

Q With considerable more interest than you did before?

A Yes sir.

Q Did somebody ask you whether you wore glasses?

A Yes sir.

Q What did you tell him?

A I told him that I had worn them about two or three months ago.

Q You read the various accounts from that time

on in the newspapers about the pair of glasses that was found at the scene of the crime?

A Yes sir.

Q And you have seen pictures of them?

A Yes sir.

Q Did you ever associate your glasses with the glasses that were found there, until this afternoon?

A Never for a moment.

Q Did you ever make a search to see where your glasses were, until this afternoon?

A No sir.

Q Where was your case?

A My case was in my bureau drawer.

Q And what else did you keep in your bureau drawer, in that particular drawer?

A Handkerchiefs.

Q Collars?

A No sir, watch, gun.

Q Do you carry a revolver?

A No sir, I don't carry a revolver. Occasionally,

yes.

Q What kind of a revolver?

A Remington 32 automatic repeater.

Q And how long have you carried that?

A I have carried that since August 1921.

Q Is there any particular reason for your carrying it?

A Because I wanted to be very grown-up.

Q And occasionally you carried it?

A Occasionally, yes sir.

Q You say you never carried your glasses in your case?

A I don't believe I said never, I said very seldom.

Q So the case being there, you would assume ordinarily it was empty?

A Yes sir.

Q What is the last time you remember seeing your glasses?

A The last time I wore them about three or four months ago.

Q And at night had you any habit of laying your glasses any place?

A During the time I was wearing them I

"used to lay them on my bureau and after I stopped wearing them regularly I used to leave them in my suit pocket quite often.

Q Why in your suit if you were not wearing them?

A Too lazy to take them out.

Q When you changed your clothes did you change them?

A No sir.

Q Just left them there?

A Just left them there.

Q The only time you wore glasses was when you read?

A Yes sir.

Q And when you were out birding you were not reading?

A No sir.

Q So if you left them in your suit the chances are they would be in your suit that you were not birding in?

A Not necessarily, because on numerous occasions until I intended going out looking for birds

"morning, such as, for example, was the case yesterday, Thursday, the suit I have on now is a birding suit, and still I wear it to school.

Q You discarded the glasses some time back several months?

A Yes sir.

Q And you couldn't go to the bother of changing them from one suit to the other because you didn't need them?

A No sir.

Q So in your judgment the last time that you had them in when you were using them, you left them there?

A Yessir.

Q If the suit happened to be sent out in the meantime to be pressed and cleaned the glasses would have been taken out by somebody?

A Perhaps not.

Q Were there any of your suits that you haven't had pressed during the past two months?

A I don't know, but I think so.

"Q What suits?

A Some of my very worst birding suits.

There is one in particular, a brown suit which I never use except for the very worst work. If I remember correctly the trousers were very baggy, and I don't believe the ~~suit~~^{suit} has been pressed in six or eight months.

Q Well after seeing the picture of the glasses you have given some thought to this case, haven't you? since Sunday?

A Yes.

Q You figured that if they found the owner of those glasses it might throw some light on this matter?

A yes sir.

Q And you never associated your glasses with the glasses that were found?

A No sir.

Q When you found out today that they were your glasses did it create any reaction on you?

A I was very much surprised and shocked, as closely as I can analyze it.

"Q Didn't you tell me this afternoon before you went home that you wouldn't be a bit surprised if they were your glasses?

A I don't believe so. I think I told you that they might be my glasses, that I wouldn't swear they were not my glasses.

Q You wouldn't be surprised, you said, that your glasses were home?

A If I did, it is that expression I should be surprised, suggesting probably they might be my glasses.

Q When you discovered that your glasses were not at home, and that these were your glasses, you say that you were somewhat surprised and shocked?

A Yes sir."

MR. BACHRACH: Do you want to read a little now?

MR. CROWE: Oh no.

MR. BACHRACH: I am a little hoarse.

MR. CROWE: Go ahead and finish it and I will take the next stop.

MR. BACHRACH: Very well.

"Q What was the occasion of your surprise

"and shock?

A The fact that the glasses which were found near the body of this boy, which everybody would suppose would link up the slayer of the boy of the crime, should turn out to be mine.

Q Well, did you ever give any expression of your surprise and shock when you discovered that they were your glasses, and if so, to whom?

A I think I did.

Q To whom?

A To my brother, my ~~xxxxxx~~ aunt and the maid.

Q What did you say to your brother?

A Probably 'it is the god-damnest thing you ever saw' or 'can you beat that' or something of that sort.

Q Your brother is outside?

A Yes sir.

Q What did you say to your aunt?

A Something along the same lines.

Q And the maid?

A They were all present.

Q Who else was present?

"not in the room.

Q What did they say?

A They were also very much surprised. My ~~brother~~ brother said, after we had hunted for a few minutes he said ' I will bet a lot of dough those are your glasses and that you dropped them out there'. My aunt naturally seemed a little bit concerned. I don't know that the maid gave any expression.

Q What did your aunt say?

A She said 'isn't it too bad, that is a terrible thing', or something of that sort, I can't exactly remember.

Q Did you register any surprise with the detectives?

A You mean today?

Q Yes.

A No, not that I know of.

Q Or register any surprise when you came back and talked to me?

A No sir.

Q You read the letter which was sent to the

"Franks family signed, purporting to be signed by some person, B. G. Johnson.

A Yes sir.

Q What is your opinion as to the kind of man that wrote that, that is as to his intellectual attainments and his education?

A He must have had some, or considerable education. I should not think it would be necessary that he be a college graduate. I should think a high school graduate or a man with some college training would be capable of writing such a letter.

Q There isn't any doubt in your mind that you could write as good a letter?

A You mean grammatically correct a letter?

Q Grammatically correct?

A No doubt.

Q And the grammar is good?

A Yes sir.

Q Punctuation was correct?

A I didn't notice.

Q Do you notice the euphony of the letter?

"A Not until it was called to my attention by Mr. Ettelson. I didn't look at it critically in that way.

Q The rhetoric?

A I didn't notice anything particular about it.

Q What is the difference between grammar and rhetoric?

A Grammar is the correct use of words in word form, rhetoric is the art of correct composition. In other words, it consists of using phrases well, sentences well, paragraphs well.

Q The rhetoric was good there?

A So far as I remember it was good.

Q Do you think a man like Mitchell capable of writing a letter as grammatically correct as that?

A Yes sir.

Q There are some teachers out there that you might have some doubt about?

A None that I know.

Q You don't know Williams?

A No.

Q You have heard me talk today. Do you think I could write a letter as grammatically correct as that?

A Certainly.

Q Offhand, or after?

A I should think you would have no difficulty with writing it offhand.

Q Without any corrections?

A Without any corrections.

Q Do you own a typewriter?

A Yes sir.

Q What is the kind of typewriter you own?

A Hammond Multiplex.

Q How long a time have you owned it?

A I don't know, a few years.

Q Have you owned any other?

A Yes.

Q What other kind?

A I owned a Corona previously, and I can't remember whether I had an Oliver a very long time ago, say ten years ago or not, I don't

"think so. This last year, this last summer I rented a Corona from the Corona people here on Randolph Street for the purpose of taking it away on a trip with me.

Q Do you ~~operate~~^{operate} a machine?

A I do.

Q You would have no difficulty writing a letter of this sort on a typewriter?

A No sir.

Q Do you drive an automobile?

A Yes sir.

Q Drive it well?

A I hope so.

Q For how long have you driven a machine?

A I have driven an automobile for three years.

Q What kind of a machine do you own?

A A Willys-Knight, four passenger.

Q Sport model?

A Country Club model.

Q Does your father own any cars besides that?

A Yes sir.

Q What kind?

Q A My father owns a packard, Twin-Six Limousine, 1916, a seven-passenger touring car, Lincoln, 1920 or 1921. My brother owns a four-passenger Lincoln Phaeton, 1921. My brother Samuel owns a Willys-St.Clair, 1923, it is either a Coupe or Sedan, Mr. Ballenberg my adopted brother owns a Lafayette also, coupe or sedan, I will be darned if I know the difference.

Q Do you drink?

A Yes sir.

Q And your favorite beverage is gin?

A Well it is hard to say.

Q Well you do drink gin?

A Yes sir.

Q Sometimes other intoxicants?

A Yes sir.

Q How many boys have you got that you class as pals?

A May I ask what you mean you would call a pal?

Q What do you think I mean by a pal? A

close friend, a boy that you chum around with?

"A I might say anywheres from a half dozen to twenty-five.

Q Are there any real close pals that you have got?

A Yes.

Q Loeb?

A Yes.

Q Dick Loeb?

A Yes sir.

Q Rubel?

A Yes, Rubel.

Q You three?

A Some more are just as good friends of mine as those.

Q Take those two, do you have any habit of eating together?

A Yes sir.

Q At least three times a week?

A Yes sir.

Q One day you eat at your house?

A yes sir.

Q One day at Loeb's house?

A Yes sir.

Q And Rubel lives at a hotel, and the third day you eat at a Hotel?

A Yes sir.

Q That is a sort of weekly habit?

A Yes sir.

Q Are there any other boys that you have such an arrangement with?

A No sir.

Q Lewis is a very good friend of yours?

A Yes sir.

Q Sidney Stein?

A Yes sir.

Q And you don't make it a habit of dining on certain days with them, as you do with other boys?

A No sir. "

Whereupon Mr. Bachrach here read into the record, privately to the stenographers, in the words and figures as follows, to-wit:

Whereupon Mr. Bachrach here continued reading into the record in open court, as follows, to-wit:

"Q From the time that you have been with me until the present moment I have treated you in what manner?

A Very courteously.

Q Has any person treated you otherwise?

A No sir.

Q Were you given every consideration that any person would expect?

A Absolutely.

Q And about as much ease and comfort as any of us have had?

A Yes sir.

Q You were fed?

A Yes sir.

Q And had a good meal?

A Yes sir.

Q No restrictions placed upon you ordering or anything of that kind?

A No sir.

Q In other words you were treated as well as you would treat a guest or I would treat a

"guest at my house?

A Yes sir.

Q No harsh words said to you, you haven't been abused in any manner whatever?

A No sir.

Q You have no complaint to make?

A Absolutely none.

Q You have been allowed to telephone and no request that you have made has been denied you?

A No sir.

MR. SMITH: How long have you known the Franks family?

A I haven't known them.

MR. CROWE: Do you remember Wednesday, the day the boy disappeared?

A Yes sir.

Q Give us an account of your movements that day?

A I arose about seven fifteen A.M., then had breakfast, went out to school, had the eight o'clock class in the criminal law, at nine o'clock I had an hour off, if I remember correctly visited the

"French class with a friend of mine, had a ten o'clock class in Agency, eleven o'clock.

Q Just where do you study Agency?

A Wamble's Cases on Agency.

Q Do you not follow the Text book system?

A No sir, At eleven o'clock or shortly thereafter I went downtown and had lunch at Marshall Field's Grill.

Q Who were you with?

A Dick Loeb.

Q Richard Loeb?

A Yes sir.

Q Have you seen him today?

A Yes sir.

Q Where?

AI saw him at ten and eleven at the University of Chicago, had lunch with him at the Windermere Hotel.

Q Was that his home?

A Until two thirty. I saw him for a moment at one thirty this morning.

Q Overhere?

A Yes sir.

Q You have been with him frequently between last Wednesday and today?

A Yes sir.

Q You went to Marshall Field's and you had your lunch and you went out to Lincoln Park?

A Yes sir.

Q And studied birds?

A Yes sir.

Q Did you have anything to drink?

A Yes sir.

Q What did you have?

A Had a little over a pint of gin and about half a pint of Scotch.

Q You had the gin and he had the Scotch?

A Yes sir.

Q When you left there what was the condition of Loeb and yourself when you left the park?

A I should say we might have been a little bit happy, neither of us was drunk.

Q He wasn't sober enough to go home to dinner?

A No, that was on account of his breathe.

Q And you had supper where?

*A At the Cocoanut Grove.

Q After that what did you do?

A After that we went for a drive in my machine.

Q Where did you drive?

A Drove up and down 63rd Street several times.

Q What was the purpose of your driving?

A Driving to find a couple of girls with nothing to do.

Q And you found them?

A Yes sir.

Q Then what happened?

A Then we drove down Garfield Boulevard almost to Western Avenue, and back to Jacks on Park, parked the car just north and east of the wooded island.

Q Did you get out of the car?

A I had made a telephone call.

Q You had made a telephone call?

A Yes, home.

Q Telephoning your folks?

A Yes sir.

Q Then what happened?

"A Then we sat around in the car, had a few drinks, and couldn't come to an agreement with the girls, so we asked them to leave and went to go home.

Q In other words the girls --

A Would not come across.

Q And they walked home?

A That is right, yes.

Q How old were the girls?

A I guess between 19 and 22.

Q Did you take Dick home, or Dick take you?

A We went first to my house and there I called for my Aunt and Uncle and left Dick at my home.

Q What time did you get home?

A I guess it was about a quarter of eleven, ten minutes of eleven possibly, sat around and talked with Richard and my father. My father went to bed and Richard and I played cards until one or one fifteen.

Q Then you took him home?

A Then I took him home in my car, put my

"car in the garage and then went to bed.

Q Your father went to bed at ~~xxxx~~ what time?

A One thirty or twelve.

MR. SMITH: What is the telephone number of the Franks home?

A Drexel 8938.

Q When you met these girls what time was it?

A A quarter of nine or nine o'clock.

Q How long did you run around with them before you went to wooded island?

A Half an hour.

Q It was about what time?

A Nine thirty or a quarter of ten when we got to the wooded island.

Q And prior to going to the wooded island you made a telephone call, what time was that about?

A A quarter of ten.

Q From where did you make the telephone call?

A The corner of 63rd street and Stony Island Avenue.

Q What is there?

"A A drug store.

Q Which corner?

A Southwest.

Q And whom did you call?

A My home and my aunt answered.

Q What did you say to her?

A I told her that I would be delayed, wouldn't be able to get there right away, I would be home in about three-quarters of an hour.

Q What did she say?

A She ~~said~~ ^{said} 'very well'.

Q What aunt is that?

A Mrs. Schwab.

Q Was your brother at home?

A No sir.

Q Was your Dad at home?

A Yes sir.

Q You didn't speak to any other one of your family?

A No sir.

Q Your acquaintanceship with the Franks has been to what extent?

A None.

Q Did you know Mr. Franks?

A No sir.

Q Did you know Mrs. Franks?

A No sir.

Q Did you know either one of the boys personally?

A No sir.

Q Have you ever visited their home?

A No sir.

Q Have you ever called their home on the telephone?

A I don't believe so. I may ~~have~~^{have} three years ago called Mrs. Franks to see whether she wanted her son to join our bird classes, I am not sure.

Q What is your recollection as to that?

A I remember calling a Franks who had a son, but I am sure I don't remember if it was these. If it was they said they didn't care to have their son take lessons.

Q After you made your telephone call you went around with the girls?

A Yes sir.

Q Did you ever visit the Franks home at all?

A No sir, not until this afternoon.

Q Did you visit it this afternoon?

A Yes sir.

Q What was the occasion?

A To call for Mr. Ettelson.

Q You went there to call for Mr. Ettelson?

A Yes sir.

Q You were calling for Mr. Ettelson on the telephone at the Franks home, do you remember that?

A Who was?

Q The question came up to call up Mr. Ettelson on the telephone?

A Yes.

Q And somebody asked what number Franks home was, what telephone number, and you immediately called the number?

A No sir, because I wasn't in the room at the time. My brother had called several times while I was looking for my glasses in the other room, and I had received the busy signal, and

"before signalling the chief operator to try and work in on the connection we tried to make, I was there at that time with my brother.

Q This was downtown?

A yes sir.

Q You were going to call Mr. Ettelson on the phone, the question was what the number was, what number the Franks telephone number was and you gave the number?

A yes sir.

Q You gave it right out of your head without referring to anything?

A yes sir.

Q You were not intoxicated?

A No sir.

Q A week ago Wednesday night?

A No sir.

Q The night that the Franks Boy disappeared?

A No sir.

Q Was your friend Richard Loeb intoxicated?

A You might call it that, yes sir.

Q Was he intoxicated at nine o'clock?

A Yes sir.

Q Was he at half past nine, ten, half past ten?

A Yes.

Q Why wasn't he at half past ten?

A Give him time for sobering up, was the reason for staying out.

Q The reason for staying out was so his breathe wouldn't smell?

A He didn't want to go home at tenthirty even on account of his breathe but I waited to take him to my home to sober up so as to be presentable.

Q You drank a half pint of gin and a half pint of scotch?

Ayes sir.

Q What time did you get up Thursday morning?

A Seven fifteen.

Q Seven fifteen?

A Yes sir.

Q And where did you go?

A To school.

Q How long did you stay in school that day?

Q In the morning?

A Yes sir.

Q And then where did you go?

A I think I went down to Dick Loeb's, but came around to my house.

Q Don't you know?

A I do not.

Q This was the same morning you met Mr. Mitchell?

A I met him that afternoon.

Q Did you have lunch at your home?

A No sir.

Q Where did you have lunch?

A Down at the Cooper-Carlton.

Q Who was with you?

A Richard Loeb and Richard Rubel.

Q What?

A Richard Loeb and Richard Rubel.

Q Does Rubel board there?

A No.

Q Why didn't you have your lunch at home that day?

A Because we had this arrangement ^{of} seating one day each week at the various places, and Rubel not living at home, but at some hotel, we knew we

"knew we were going to have a full meal there at a table d'hote dinner.

Q After you had your lunch where did you go?

A Went home.

Q What time was that?

A Half past one or two.

Q Did you have any more classes after that?

A No sir.

Q Did you have any classes in school Wednesday?

A Yes.

Q What time is your first class?

A Eight o'clock.

Q What time did you get through there?

A Eleven o'clock.

Q And your studies are so situated over there that you can go home with other boys?

A Yes sir.

Q After you get out of your class you ~~can~~ go home?

A Some times.

Q Did you have any homework to do in any of your classes?

A Supposed to, but didn't do much.

Q Thursday afternoon what time did you leave your home?

A I should judge about four or four fifteen.

Q Where did you go to?

A Over to Dick's, Dick Loeb's.

Q Where does he live?

A 5017 Ellis.

Q ~~Was~~ Was that the occasion that you met Professor Mitchell?

A It was later in the afternoon.

Q About what time?

A About four~~y~~ fifteen.

Q And where was he when you met him?

A He was on the east side of Ellis Avenue which is North 47th Street.

Q Q What was he doing?

A He had apparently just come from the school.

Q Whi~~b~~ way was he going?

A He was going north.

Q Was he north of 47th?

A He was south of 47th.

THE COURT: We will have the usual recess
for ten minutes.

Whereupon a short recess was here taken g
by the court and counsel.

- - - - -

1
Harvey
rels
Snyder
11:15 A
7-29-31

(Whereupon pursuant to a short recess heretofore
taken the following proceedings were had.)

MR. SBARBARO:

"Q Going towards 47th?

"A Yes.

"Q Was he walking?

"A Yes, sir.

"Q Walking away from the school was he?

"A Yes, sir.

"Q He did not have this automobile?

"A No, sir.

"Q What did he say at the time?

"A I spoke out, said 'How do you do, Mr.
Mitchell, I have not seen you for a long time?
How are you'.

"Q Up to that time, that was about 5:15 you
had not known that the Franks boy was gone?

"A No, sir.

"Q Did you read the morning paper Thursday?

"A Probably glanced through it.

"Q Do you know whether you did or not?

"A What was the last question?

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"Q Do you know whether you saw the paper that morning or not?

"A I think I did.

"Q You didn't see anything in the paper relative to the Franks' boys disappearance?

"A I did not look through very closely but I did not notice anything.

"Q If it was on the front page you would have noticed it?

"A Probably, depending how large a print it got.

"Q Nobody in your household mentioned about the Franks' boys having disappeared Thursday morning?

"A No, sir.

"Q Did you have breakfast at home?

"A Yes.

"Q Did your folks know the Franks?

"A They know where they are.

"Q And your friend Loeb did not mention that fact to you all day?

"A No, sir.

"Q Mr. Rubel didn't mention that fact to you when you were at the Cooper Carlton?

"A No, sir.

"Q You are sure about that.

"A Positive.

"Q You passed by the Harvard School several times that day?

"A I ~~remember only~~ remember once.

"Q When you passed by the Harvard School Thursday afternoon at that time you did not know the boy had disappeared?

"A No, sir.

"Q What did you see at the Harvard School, anything to attract your attention?

"A Nothing.

"Q No police officers?

"A No, sir.

"Q Nothing unusual about the Harvard School around five o'clock?

"A No, sir.

"MR. CROWE: Are you a member of any established Church?

"A No, sir.

"Q What if any religious belief do you entertain?

"A None.

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"Q What is your idea of the existence of a God.

"A I do not believe there is a God.

"Q If you die what becomes of you?

"A Your ashes return to ashes and dust to dust.

"Q Is there any difference between my death and the death of a dog?

"A No, sir.

"Q In other words, when I die I am dead all over.

"A Naturally dead.

"Q There is no hereafter or any hope of return or any reward or punishment,

"A That is my belief.

"Q For how long a time have you entertained that belief?

"A Some seven or eight years.

"Q You began to arrive at that conclusion between what ages?

"A I should say around eleven.

"Q And you have given some thought and study to that matter?

"A Yes.

"Q And you are what is ~~being~~ termed as an

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A Yes, sir.

"Q It is your belief, is it not, and you expressed to me some time ago that a God was created by the head of a tribe that was not powerful enough to punish all the crime and misdoings of his people, and he wanted them to believe that if anybody disobeyed him after they died somebody with a longer beard or bigger sword or bigger club would get them afterwards.

"A That is a very plausible theory so far as I know.

"Q You expressed it somewhat better than I do, but substantially in that way?

"A That is what my opinion but of course that is only a theory.

"Q The only way you can demonstrate that Christ exists is to die?

"A Yes, sir.

"MR. SMITH: Did you make any telephone calls Thursday?

"A I don't remember any. I may have though, yes I probably did.

"Q What?

"A I did, yes.

"Q What time?

"A After I got home.

"Q What time was that?

"A Six of six fifteen, possibly before that.
Possibly a quarter to six.

"Q Did you call from home?

"A Yes, sir.

"Q Where did you call?

"A Called some friends of mine.

"Q Who were they?

"A A young lady friend.

"Q What is her name?

"A Is it necessary to have that?

" Q Yes.

"MR. ETTTELSON: What about that?

"A I have nothing to say.

"A May I ask you as a friend, do I have to
answer the lady's name?

"MR. ETTTELSON: I would say answer the question
the State's Attorney asks you.

"A Miss Susan Lurie.

"Q Where does she live?

"A 923 Margate Terrace.

"Q On the north side?

"A Yes, sir.

"Q What is her father's name?

"A Jacob Lurie.

in

"Q Is he the lumber business?

"A No, sir.

"Q You say you had been in some drug store
Thursday afternoon?

"A Immediately after seeing Mr. Mitchell.

"Q What time was that?

"A I should say about five fifteen.

"Q Where is Bignold's drug store located?

"A It is not Bignold's drug store, it is Lewis
Brothers.

"Q Where is that located now?

"A Southwest corner of 47th and Ellis.

"Q What time did you go in there?

"A Shortly after meeting Mr. Mitchell about five
fifteen, I should judge.

"Q Where were you coming from when you met Mr.

"A From the Nash Company.

"Q Nash Automobile Company?

"A Yes, sir.

"Q Where was that located?

"A 2000 South Michigan.

"Q Were you in your car?

"A Yes, sir.

"Q Were you on Ellis Avenue?

"A What do you mean?

"Q When you met Mr. Mitchell?

"A Yes.

"Q Where do you live?

"A 4754 Greenwood.

"Q Is Greenwood east or west of Ellis?

"A East.

"Q Am I mistaken if I understood you to say you were on your way over to your friend's house when you met Mr. Mitchell?

"A We had intended to get a soda when I saw Mr. Mitchell.

"Q Who?

"A Richard Loeb and myself.

"Q Was Richard Loeb with you when you went to the Nash people?

"A Yes.

"Q About what time had you gone to the Nash people?

"A Quarter of five.

"Q You had gone at a quarter of five?

"A You mean I arrived there?

"Q What time did you leave home to go there?

"A As I say, I left my home about four or a quarter after and went over to Dick's.

"Q With your car?

"A With my car. Then I took him down on his errand to the Nash company.

"Q It was his errand?

"A It was his errand.

"Q Where does Dick Loeb live?

"A 5017 Ellis.

"Q You passed the Harvard School then?

"A Yes, sir.

"Q How did you get there?
my driveway on Greenwood to 48th,
went over 48th to Ellis, and ~~stay~~ on Ellis to

"A I went to

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Dick's house. After calling for him, went up to the boulevard, down the Drexel Boulevard System.

"Q Do you know whether or not Loeb knew the Franks?

"A I am not sure; I think he did, know this boy because Mr. Franks this afternoon said he had gone over to Loeb's tennis court to look for the boy after he noticed his disappearance.

"A Loeb's have a tennis court don't they.

"Q Loeb's have a tennis court.

"Q And Robert played tennis?

"A I think so.

"Q His father said so didn't he?

"A Yes, sir.

"Q They live in the same block?

"A Yes, sir.

"Q You went to 20th and Michigan Avenue to the Nash people?

"A Yes, sir.

"Q What time did you arrive there?

"A About a quarter of five.

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"Q Quarter of five?

"A Yes.

"Q And who did you see there?

"A I did not go in.

"Q Where did you park your car?

"A On Michigan Avenue right outside of the place.

"Q How long was Loeb in there before he came
out?

"A Four or five minutes.

"Q Does he own a Nash car?

"A Yes, sir.

"Q What did ~~she~~ go there for if you know?

"A Yes, sir.

"Q What for?

"A His car was wrecked seven or eight weeks ago
and they had promised it at that time or he wanted
to go down to find out when it would be out.

"Q That is the reason you went down there?

"A Yes.

" Q Then you came back down Michigan to 47th?

"A No.

" Q How did you come down?

"A Michigan to 33rd, 33rd over to Calumet, Calumet to 35th, 35th to Grand, Grand to 39th or Oakwood Boulevard, Oakwood to Drexel, Drexel to 45th, 45th to Ellis, and Ellis to 47th.

"Q Drexel to where?

"A 45th.

"Q And down Ellis to 47th?

"A Yes, sir.

"Q Where did you stop your car?

"A On the east side of the street, Ellis Avenue, just south of 47th Street.

"Q On the east side of the street?

"A Yes, sir.

"Q Ellis Avenue is just south of 47th?

"A Yes, sir.

"Q It was there that Professor Mitchell was coming along?

"A Yes, sir.

"Q You then pointed on the left side of the street?

"A Yes, sir.

from the drug store where you wanted to go in?

"A Yes, sir.

"Q Louis drug store was on the southwest corner of 43rd and Ellis?

"A Yes, sir.

"Q Was it Louis' drug store that you went in to?

"A Yes, sir.

"Q Who was in there when you went in?

"A Girls, a lot of people, and a few more students of Harvard School.

"Q Had you been in the drug store before?

"A Yes, sir.

"Q How many times?

"A Numerous times.

"Q Do you know the Louis'?

"A Yes.

"Q Do you know them?

"A I know them well. I have been in a number of times to say how do you do to them.

"Q But you knew the people to say how do you do to the Louis'?

"A Yes, sir.

"Q In fact they were in the drug store?

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"A I did not see Mr. Lewis; it was the soda clerk whom we call Al.

"Q How long before that time did you see Mr. Lewis there, the last time?

"A Several weeks or months past.

"Q What was it?

"A I don't know the last time I got a soda there possibly.

"Q How long ago was that?

"A I can't remember.

"Q Your memory is pretty good on everything else, don't you remember that?

"A Well, I can guess four weeks, four or five weeks.

"Q What is your best guess?

"A Four or five weeks.

"Q Will you say it was four or five months?

"A No, I don't think so.

"Q As a matter of fact Lewis' owned that drug store for a long long time haven't they?

"A I don't know.

"Q What?

"A I thought they did. Bignolds used to own it. I think they sold it to Lewis'.

"Q You telephoned from that drug store yesterday, didn't you?

"A No, sir.

"Q You are sure of it?

"A Positive.

"Q Who are some of the Harvard students that were in there when you were there?

"A I don't know.

"Q Did you recognize any of them?

"A No, sir.

"Q Why did you stop on the left side of the street?

"A Because there was a fire hydrant on the right side of the street and two cars beyond the hydrant parked so that I could not have gotten in on the right side of the street without going south of the alley which is south of the drug store.

"Q What was that?

"A There was a fire hydrant on the right side of the street and two cars parked by the hydrant

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so I could not have gotten in on the right side of the street without going south of the alley which is south of the drug store.

"Q Is there an alley south of the drug store?

"A Yes.

"Q The drug store is about a hundred and twenty five feet east, isn't it, on Ellis Avenue?

"A I guess so.

"Q So that space of 185 feet was taken up by two automobiles that was parked there?

"A The space up to the fire hydrant I should judge twenty five feet from the corner would impede the sidewalk if you parked there. There was a respective fifteen feet I imagine allowed for the fire hydrant. The cars were not parked there close together.

"Q That fire hydrant is on Ellis Avenue?

"A Yes, sir.

"The Court: As you drive how long does it take to drive from your house or Bignolds house to this drain?

"A About thirty five minutes.

"Q Were you driving along on Wednesday in your car along Ellis Avenue between 47th and 49th in the afternoon?

"A No.

"Mr. Crowe: Have you any nickname?

"A Yes, sir.

"Q What is your nickname?

"A I have two Babe and Flea.

"Q How did you get the Babe?

"A That is from the family.

"Q Who did you get the Flea from?

"A A whole bunch of fellows at my school gave a look of nicknames. We tried to get peculiar ones and possibly on account of my small size, I was smaller than than I am now, and possibly because I was very interested in insects.

"Q Does Dick Loeb operate a typewriter?

"A I think so.

"Mr. Smith: You went up and down 63rd Street on Wednesday night?

"A Yes.

"Q Were you on 63rd Street on Thursday?

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"A Was I on 63rd Street on Thursday?

I was not.

"Q Were you there on Friday?

"A I don't believe so.

"Mr. Crowe: Have you ever used any narcotics?

"A No, sir.

"Q Of any kind in any shape?

"A No, sir, I don't believe I ever have had any administered to me.

"Q You have ether at your house. What is that for?

"A I did use ether and chloroform for killing birds, large birds.

"Q And arsenic ?

"A Arsenic for killing birds.

"Q And whatever drug you have got out there are used for that purpose?

"A Yes, sir.

"Q What is the color of your car?

"A Red.

"Q And it has got a top?

"A Yes, round top.

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"Q It is a summer car?

"A Yes.

"Q You have side curtains up in this weather?

"A In the back, not in the front.

"Q Who is Sappho?

"A A great Greek writer of old, Homo-sexualist.

"Q By homo-sexualist, you mean a pervert?

"A Yes, sir.

"Q What have you read about her?

"A Merely that she was a famous poetess, homo-sexualist.

"Q That is some book on sex perversion? Who was the author of that?

"A Havelock Ellis.

"Q And Oscar Wilde was a pervert?

"A Yes, sir.

"Q And he wrote some number of works?

"A Yes, sir.

"Q You read them?

"A Read some of them.

"Q And they are supposed to deal with perverts?

"A No, sir.

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"Q What is Dorian Gray?"

"A Dorian Gray is a novel by Oscar Wilde dealing with the painting of a picture by an artist of a man for whom he had a very deep regard. In the light of what later came out about Oscar Wilde it has often been said that he had sexual tendencies istic

. The subject of the story this young man is turned to a cynic by a friend of his - well, Henry somebody - and he makes a wish that he shall never grow old in appearance, but that the picture which is a very wonderful likeness of him shall show the signs of age, but whose face shall retain its youth. His wish in some peculiar way comes true and the first time he sins in regard to a woman it appears on the face of the picture and he grows so irritated at the picture he takes it upstairs in the attic. Later he grows so bitter against the painter of the picture as each sin he commits shows on the picture, which represents conscience, and of course ~~that~~ he kills the painter later. Well, there are a great many adventures,

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and the brother of this girl, who he mistreated
trys to kill him, but he gets away with it, because
he appears to be so much younger than he is. He,
the brother cannot believe this is the man, and
finally he is deprived of a finger and he takes
the dagger and he stabs the old painting.

Next morning the servant finds the body is
apparently Dorian Gray, but a very much older face
than when last seen, with a knife in the shirt
front , and a very good picture of the old man.

"Q Did you ever read Dr. Jekyll and Mr. Hyde?

"A No.

"Q Did you ever read any of Stevenson's works?

"A Yes.

"Q What did you read of Stevenson's works,
Treasure Island?

"A Treasure Island, yes I read Treasure Island,

"Q And Kidnapped?

"A Yes.

"Q What is that Kidnapped or Kidnapper?

"A Yes, Kidnapped. I believe I did read that
in school.

"Q That is Robert Stevenson?

"A Yes.

"Q That is this book?

"A Yes.

"Q Did you ever read the Ransom of the Red
Chief by O Henry?

"A Yes.

"Q Who is David H. Stevens?

"A I have no idea.

"Q Did you ever see that letter before?

"A No, sir.

"Q Did you read the Ransom of the Red Chief?

"A Yes, sir.

"Q You have been very friendly with Rubel?

"A Yes, sir.

"Q What is his first name?

"A Richard.

"Q And you have been very friendly with Dick Loeb?

"A Yes, sir.

"Q Have you ever had any trouble with Dick Loeb or Rubel recently?

"A No.

"Q Ever had any misunderstanding?

"A A little once, yes.

"Q When?

"A Well, I remember about last September or October we had a little misunderstanding.

"Q What was that about?

"A Well, it was a date for last New Year's Eve.

"Q This was in October you say?

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"A Yes, we had the date last spring, probably in April or May.

"Q For the following January?

"A The following January, 1st.

"Q What was the misunderstanding in October?

"A We had a date to go out together and my side of the story is what, something better came along and he went with the other parties and left me in the lurch. not

"Q October; that was the first of January?

"A That is true, but most people I guess make dates for a year in advance for New Year's Eve.

"Q Who told you in October that he was going to change the plans?

"A He did.

"Q Dick?

"A Yes.

Isn't it Dick Rubel you are talking about ?

"Q Well, I don't know? A Yes, Dick Rubel.

"Q What misunderstanding, what words did you have?

"A Do you want the entire circumstance?

"Q Yes.

"A Of course, I should give you my side of the story naturally. Of course Dick Loeb and Dick Rubel and I have been pretty close friends for some time; we have palled around, the three of us quite a bit. Last summer Dick Rubel was not in town. We made this date. We had not decided definitely just what we would do, whether we would go to the Drake or something like that, or whether we would go to a cabaret, but anyhow, we knew we were going to be together, and this summer Dick Rubel went to Dick Loeb's home and Dick Loeb at that time was friendly with a young lady who was quite young, and her best friend was also about her age, and Dick Loeb's girl's mother did not want to let her go out on New Year's Eve particularly alone with one couple. She would much prefer to have two, and they thought they would go out together with the two girls. They thought they could put it over on me and let it go at that. I did not like it very much because I did not think it was a ~~very~~ nice thing to do, and I had some words with both Dick Rubel and Dick Loeb about it, but **it was all settled.**

"Q Did you write a letter to either one of them about it?

"A Yes, I wrote Dick Loeb a letter.

"Q And the trouble originally was with Loeb and not Leopold?

"A The trouble originally was with Rubel but I knew it was Loeb that was prompting him to change his mind.

"Q Did you ever commit any acts of perversion on either one of these boys?

"A No, sir.

"Q Or they on you?

"A No, sir.

"Q You are positive of that?

"A I am positive of that.

"Q There wasn't any rumor around that you had?

"A Yes, sir.

"Q Is that your handwriting?

"A Yes, sir.

"Q When did you write that?

"A I think that is the letter which got to Dick Loeb, I don't know just what date.

"Q When?

"A Wait a minute, I can remember the date. It

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was in the month of October.

MR. SBARBARO: This reads as follows.

MR. BACHRACH: Do you want to read that all in there?

That letter is in evidence.

MR. SBARBARO: I will read it. (Reading the letter)

"Dear Dick: In view of our former relations I take it for granted that it is unnecessary to make any excuse for writing you at this time, and still I am going to state my reasons for so doing. As this may turn out to be a long letter and I do not want to cause you the inconvenience of reading it to find out what it contains if you are not interested in the subject dealt with."

"Q Do you remember that?

"A Yes.

"First I am enclosing the document which I mentioned to you today."

"Q What was that doc t?

"A I will be darned if I remember, probably Dick might.

"And which I will explain later. Second, I am going to tell you of a new fact which has

com~~A~~up since our discussion, and which I am going to put in writing what my attitude toward our present relation is with a view of avoiding further possible misunderstandings, and in the hope the --

"A May I read it to you? Probably I can decipher it. I probably can help you out.

"Q "And in the hope, which I must confess is rather vain. Possibly we may have ~~mis~~understood each other and can yet clear this matter up.

Now, as to the first, I wanted you this afternoon and still I want you to feel that we are on an equal footing legally.

"Q What do you mean by legal?

"A Well, that was just about a month after I had entered the high school and I was pretty full up to the neck with torts and therefore I --

"AndIpurposely committed the same tort with which you were guilty."

"Q What was that tort?

"A Well, I think in this discussion that we had had I was sitting in Dick's automobile out of school and against my will he took me down to his house in the automobile and refused to let me get out.

False imprisonment.

"Q Did you commkt the same one?

"A I did purposely..

"Q That was all just a case of one fellow driving along with the other fellow without his consent?

"A I refused to let him out, yes.

"Q 'The only difference being that in your case facts the ~~subject~~ would be harder to prove than mine should I deny them."

"Q How would it be easier to prove you drove him out than he drove you out?

"A The other way around. I did not drive him out but locked him in my room.

"Q 'The enclosed document which would usually secure you against changing my mind and setting forth facts if the matter should come up as it would prove to any court that they weretrue'were you figuring you were going to have a lawsuit about this?

"A Absolutely not. We were very formal. We had had a misunderstanding and we were very formal about it.

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"Upon your suggestion, I immediately phoned Dick Rubel and speaking from a paper prepared before hand to be sure of the exact wording said 'Dick when we were together yesterday did I tell you that Dick Loeb had told him the things which I then told you that in my opinion that I believed them to be so'.

What were those?

"A The questions and the facts of how much Dick Loeb refused to get Rubel to change his date and they tried to deceive me about having done it afterwards.

"Q 'I asked Dick twice if he understood and on the same story both times which I took down as he spoke felt that he did understand and he replied no.'

"A He did not tell me that. Dick told you the things.

"Q 'He did not tell me that. Dick told me these things. But said that they were in your opinion true. He further denied telling you subsequent that I said that they were gleaned from the conversation with you. I then told him that he was

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quite right and you never had told me. I further told him that this was merely your suggestion of how to settle any question of fact that he was in any wise implicated thereby, that neither of us would be angry with him at his reply. I imply your assent to this. This, of course proves that you were mistaken this afternoon on the question of my having actually and technically broken confidence. And voice my apology which I made contingent on proving this matter.' What confidence had you broken?

"A Dick Loeb had told me something about Dick Rubel some varying consequential thing. I have forgotten now. It might have been almost anything. Something deprecatory of Dick Rubel.

"Q "Now, the third and most important question when you came to my house this afternoon I expected to break friendship with you, or attempt to kill you unless you told me why you acted as you did yesterday' What about that threat to kill him?

A That is common colloquialism, having a scrap, trying to kill him.

"Q You are studying law, you are pretty fairly

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educated fellow and pretty bright minded boy, as things go, aren't you?

"A Yes, I think so.

"Q 'I expected either to break friendship with you or to kill you unless you told me why you acted as you did yesterday. You did however tell me and hence the question shifted to the fact that I would act as before if you insisted in thinking me treacherous which would waive, Dick Rubel's opinion went , as it did, with mine, or any intention. Now, I apprehend tho here I am not quite sure that you said you did not think me treacherous if anything was ever had, but that you considered me in the wrong when you expected such a statement from me. This statement I unconditionally refused to furnish until such time as I am convinced of its truth. However, the question of our relation I think must be in your hands unless the both exceptions are mistaken, inasmuch as you have satisfied me first on the one hand and then on the other requirement upon which I agreed to refrain from attempting to kill

you.' Again there is a threat to kill.

"Hence I have no reason not to continue to be on friendly terms with you and would not under ordinary conditions continue as before. The only question then is with you. You demand me to perform an act namely to state that I acted wrongly. This I refuse. Now, it is up to you to inflict the penalty for this refusal, at your discretion to break friendship, to inflict physical punishment or anything else you like or on the other hand to disregard the refusal and continue as before. The decision therefore must rest with you. This is all of my opinion on the right or wrong of the matter. Now comes the practical question. I think that I would ordinarily be expected to and in fact do expect to continue in the attitude towards you as before until I find out either by direct words or by conduct on your part which way your decision has been formed. This I would do. Now, the word of advice. I do not wish to influence your position either way but I do want to warn you that in case you you admit it advisable to discontinue friendship that in both of our

interests extreme care must be used. Motifs of falling out of cock suckers would be sure to be popular.

"A Refers to that very perversion roughly.

"Q Falling out of thieves, when thieves fall out honest men get their dues?

"A Of course it is still from that adage.

"Q Where had you heard the expression of falling out of cock suckers?

"A I never have.

"Q Is there any significance in that?

"A It was exactly that refers to the rumor which was spread by the two of us as I told you in the summer of 1931 which was very prevalent and as a result of which Dick and I were very careful when we were alone together for over a year in that we were very seldom alone together and when we were we took a chaperon along.

"Q Falling out of cock suckers would be sure to be popular which is patently undesirable and which forms an irksome-- you read it.

"A Undesirable and which forms an irksome but

unavoidable apparent bond between us. Therefore it is in my humble opinion expedient, though our breach need be no less real in form, yet to observe the contentionalities such as salutation on the street and a general appearance of at least not unfriendly relations on all occasions when we may be thrown together in public. Now, Dick, I am going to make a request to which I have no right perhaps and yet which I dare to make rather for auld lang syne, will you if not too inconvenient let me know your answer to the last count before I leave tomorrow? This to which I have no right would greatly help my peace of mind in the next few days when it is most necessary to me. If you will merely call up my home before 12 Noon and leave a message saying Dick says yes, if you wish our relations to continue as before and Dick says un-
no if you do not. It is necessary to add that your decision will of course have no effect upon my keeping to myself our confidence of the past and that I regret the whole affair more than I can say. Hoping not to have caused you too much

much trouble in reading this, I am for the present, as ever, Babe.

"Q You have got two statements in there that you are failing to get, even though you and he do part anyway for appearance sake that he pretend to be a friend of yours?

"A Otherwise there would have been a great deal of talk.

"Q Cook suckers falling out.

"A Yes.

"Q Don't you think that two young men of your standing and his standing had reference to a misunderstanding and a parting of the ways between you, falling out of cook suckers, is somewhat strange?

"A That was in quotation marks, either actually or to be read as such. That is what I meant to say would be the opinion or the talk, small talk of a great many of our friends. It appears we each thought we had a great number of friends, and one person whom we know who for reasons which we had tried to figure out were decidedly malicious,

towards both of us had spread such a rumor as this and as I say we have tried to trace the source and the most logical explanation for which I can possibly find is that while it is just an agreeable thing in associating among my friends and it may have been ~~heard~~ uttered in such a way in the presence of a number of people and in that way misinterpreted.

"Q If a man calls you a cock sucker what would you do?

"A I would try my best to knock his block off under ordinary circumstances.

"Q The same as if he would call you a son of a bitch.

"A Yes, if I thought he meant it.

"Q Then I have heard son of a bitch being used as a term of endearment but I never heard a man call another a cock sucker. You use pretty good language, you are a man of refinement, education, culture, come of a very nice family. The boys with whom you associate are all well bred boys aren't they?

"A Not in their conversation, it doesn't seem to

be a part of good breeding nowadays.

"Q Is it a habit among you boys to call each other cock suckers?

"A Sure.

"Q They don't resent that?

"A Certainly not. Hasn't an old friend ever come up to you and slapped you on the back, and say, "How are you, you old son of a bitch, or you old bastard or something like that.

"Q I say I have heard of a fellow being called a son of a bitch in terms of endearment, the fellow was only smiling when he called it to me. There had been rumors that you were a cock sucker?

"A Yes, sir.

"Q Don't you think that that added fact would cause you to resent very sharply any fellow calling you a cock sucker?

"A If I found it out, yes.

"Q You knew that you had been charged with being a cock sucker several years ago?

"A Yes.

"Q So in the last two or three years you would

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resent very sharply anybody calling you a cock sucker?

"A And supposing that rumor had been circulated among say two or three hundred of your intimate friends or your intimate acquaintances. It was a habit and custom of society to use that term in another application. What would be the effect of flaring up and trying to knock the dickens out of a man who calls you that?

"Q It is hard for me to put myself in a position of having a fellow circulate that rumor about me for several years and then persist in calling me a cock sucker?

"A I haven't seen a man since but here is the point to get, and I was talking about that and I was trying to do everything in my power to knock hell out of this man.

"Captain Hughes: Q Do you carry a gun with you?

"A No, sir, I have on occasion.

"Q What for?

"A For protection. For instance if I take a long trip in my automobile in the country I return late

at night. I think that is a duty you owe a girl.

"Q Is that what you bought it for?

"A No, my purpose was to have it in my house for protection to take it on country trips.

"Q Do you know as a matter of fact that that letter was written very recently? That letter was not written last October?

"A It was.

"Mr. Crowe: Q Why didn't you tear that up?

"A Because we had had several quits or words and I asked to have documentary evidence as to what I had said, I sent a typewritten copy and I left it in my desk on the third floor in the front room ; that letter was written. I was going away on a trip that I made in October, by gosh, early in October down to Cambridge ^{Massachusetts} to deliver a lecture for the anthropological society.

"Q Do you know a man named Mr. Chidlaw?

"A No. Who is he?

"Q I don't know, I am asking you?

"A Yes, I am pretty sure I don't know his.

"Q What is Rubel's first name?

"A Richard.

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"Q Where does he live?

"A Madison Park Hotel.

"Q Do you know a fellow named Kumler?

"A No, sir.

"Q Or a fellow named Henley, C. C. Henley?

"A That name is very familiar, but I don't place
it."

~~XXXXXX~~

X

41 MR. SBARBARO: That finishes all that statement?

MR. CROWE: Mr. Allen did you take the confession of Leopold, or was it Sheeder?

A Yes, sir, I took the confession.

Q All right, now have you got your notes?

A Yes, sir.

Q On that confession?

A Yes, sir.

Q When was that statement taken?

A That statement was taken -- I have it right here. That was taken on Saturday, May 31st, at four twenty A M IN the presence of Mr. Joseph E. Savage, Assistant State's Attorney, Chief Hughes, Chief of the Detective Bureau.

Q Now after having taken the statement of Leopold you and Leopold came into my room where Loeb was?

A Yes, sir.

Q Now, when you got in what time in the morning was that?

A I don't find that in the book. I don't know just exactly what time that was. I have not the time noted. When we went in that room it was around --

Q Well, half past four in the morning?

A It was about an hour after the statement, they commenced

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to take the statement of Leopold.

Q Now, who was present in my room when you and Leopold came in, beside Loeb?

A There was --

Q Read the names of everybody.

A Robert E. Crowe, State's Attorney, Mr. John Sbarbaro, Assistant State's Attorney, Richard Loeb, Nathan Leopold, Jr., Captain Schumacher of the Police Department, Assistant State's Attorney Joseph E. Savage, Sergeant James Gortland, Sergeant Johnson, Sergeant King, Robert E. McMillan, Assistant State's Attorney, George Moxley, William R. Swisler, Chief Hughes, Senator Ettelson, and Sergeant Lang of the police department.

Q Cuzco. Wasn't F. A. Sheeder there?

A Yes, sir, Mr. F. A. Sheeder.

Q F. A. Sheeder is the other shorthand reporter?

A Yes, sir.

Q He is the man who had taken ~~Leopold's~~ confession while you were taking Leopold's?

A Yes, sir.

Q And after you had secured the confession of Leopold you read that confession to Leopold and Loeb in the presence

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of these persons you have named?

A Yes, sir.

Q And Sheeder, the other court reporter reported what was going on at the time?

A Yes, sir.

Q Now, did you transcribe that?

A Yes, sir.

Q I will show you this statement and ask you whether this is a transcript of the notes that you got there?

A Yes, sir, it is.

Q And is this a correct --

A Yes.

Q -- transcript?

A Yes, sir.

Q Would you rather have the original notes or the transcript read?

MR. DARROW: The transcript is all right.

MR. CROWE: There being no objection from the defendants personally or counsel --

MR. BACHRACH: Can it be considered read?

MR. CROWE: No I would rather have it read.

THE COURT: All right.

THE WITNESS: (Reading) Statement taken in the office of the State's Attorney of Cook County --

MR. CROWE: Now, if you come to a passage direct my attention to it.

MR. ALLEN: Yes, sir.

THE COURT: The transcript of the confessions or the statements of the defendants that was just read are read for the purpose of the record. The Court did not hear but was informed it contained matter unfit for publication. Of course it could serve no good purpose to be read aloud, but the Court will acquire a copy of it and will look over it when he is summing up the evidence in this case.

MR. CROWE: I will give you those copies some time today, your Honor.

Go ahead.

MR. ALLEN (Reporter):

Present: State's Attorney, Robert E. Crowe,
Assistant State's Attorney"

You don't want those read?

45 MR. CRONE: Well, read the names, it will only take a minute.

THE WITNESS: (Reading)

Joseph P. Savago,

John Sbarbaro,

Robert E. McMillan,

Lawrence A. Cuno,

Samuel A. Ettelson,

Chief of Detectives, Michael Hughes,

Captain William Schumacher,

James Gortland,

Sergeant Johnson,

Sergeant Lang,

William R. Swialer,

George Moxley,

Richard Loeb,

Nathan Leopold, Jr.

and

F. A. Sheeder, Shorthand Reporter.

"MR. SAVAGE: Q What is your name?

"A Nathan F. Leopold, Jr.

"Q And your address?

"A 4754 Greenwood Avenue.

"Q And your business?

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"A Student.

"Q Student at what school?

"A University of Chicago Law School. "

MR. CROWE: Just a moment. You are the person who is reading, are you?

A Yes, sir.

Q I mean in my office?

A Yes, sir.

Q And this is the statement that you had just taken of Leopold where he was interrogated by Savage?

A Yes, sir.

MR. CROWE: All right.

THE WITNESS:

"Q Student at what school?

"A University of Chicago Law School.

"Q And you have attended the University of Chicago Law School for how long?

"A For nine months.

"Q Prior to that time what school did you attend?

"A University of Chicago.

"Q And for how long during that period?

"A For a year.

"Q And prior to that?

"A University of Michigan for a year, prior to that University of Chicago for a year; prior to that Harvard School for five years; prior to that Douglas School for four years, and prior to that the Spade School for two years.

"Q How old are you Nathan?

"A Nineteen.

"Q What is the date of your birth?

"A November 19th, 1904.

"Q Have you any brothers, Nathan?

"A I have two brothers.

"Q What are their names?

"A Foreman and Samuel Leopold.

"Q And you have one other --

A I have a cousin who lives with us, Adolph Ballenberger.

"Q Your father's name?

"A Nathan F. Leopold.

"Q What is his business?

"A Morris Paper Mills.

"Q Now, Nathan, I just want you to go on in your own way and tell us the story from the beginning, tell us the whole thing.

"A When we planned a general thing of this sort was as long ago as last November I guess at least and we started on the process of how to get the money which was much the most difficult problem. We had on several dozen different plans, all of which were not so good for one reason or other. Finally we hit upon the plan of having money thrown from a moving train, after the train had passed a given landmark. The landmark we finally chose was the factory of the Champion Manufacturing Company at 74th Street and the I C Railroad tracks. The next problem was the system of notification to the father. We originally planned a number of relays in other words the man was to receive a special delivery letter telling him his son had been kidnapped and was being held for ransom, then to secure

ten thousand dollars in denominations as follows:
Eight thousand dollars in fifty dollar bills
and two thousand dollars in twenty dollar bills.
He was to get old unmarked bills whose numbers
were not in sequence, and these he was to place
in a cigar box, securely tied, wrapped in white
paper, the ends were to be sealed with sealing
wax and the reason for this was to give him
the impression that the box would be delivered
personally to a messenger of the real executives
of the plan. He was then to receive a phone
call at about one or two o'clock in the afternoon
instructing him to proceed to a Help Keep the
City Clean box whose location was to be definitely
given. Then he was to find another note which would
instruct him to proceed to a drug store which
had a public phone booth. He was to be called
at this phone booth, the drug store being very
near the I O track, and given only just enough
time to rush out buy a ticket and board a
through train without allowing him enough time
to instruct detectives or police as to where he
was going. In the train he was to proceed to the

rear car, look in the box left for telegraph
blanks for another letter, this letter instructed
him to go to the rear platform of the car, face
east and look for the first large red brake
factory adjacent to the tracks which had a black
water tower bearing a white inscription Champion.
He was to count two or three after that and
then throw the box as far to the east as he
could. The next problem was getting the victim
to kill. This was left undecided until the day
we decided to pick the most likely looking
subject that came our way. The particular case
happend to be Robert t Franks. Richard was
acquainted with Robert and asked him to come
over for our car for a moment. This, occurred
near 49th and Ellis Avenue. Robert came over
to the car was introduced to me and Richard
asked him if he did not want to help him.

"Q Richard who?

"A Richard Loeb. He replied no, but Richard
said, well come in a minute. I want to ask you
about a certain tennis racket. After he had
gotten in and I stepped on the gas, proceeded

south on Ellis Avenue to 50th Street
in the meantime Richard asked Robert if he minded if we took him around the block, to which Robert said, no. As soon as we turned the corner Richard placed his one hand over Robert's mouth to stifle his outcry, with his right beating him on the head several times with a chisel, especially prepared for the purpose. The boy did not succumb as readily as we had believed so for fear of being observed Richard seized him, and pulled him into the back seat. Here he forced a cloth into his mouth. Apparently the boy died instantly by suffocation shortly thereafter. We proceeded out to Calumet Boulevard in Indiana, drove along this road that leads to Gary, being a rather deserted place. We even stopped to buy a couple of sandwiches and some drinks for supper.

Q Where?

A On Calumet Boulevard at I guess 132nd Street, the body was covered by an automobile robe which we had brought along for the purpose.

We drove up and down this road until dark then proceeded over the path which leads out towards Hegewisch, from 108th and Avenue F to the prearranged spot for the disposal of the body. We had previously removed the shoes, trousers and stockings of the boy, leaving the shoes and the belt by the side of the road concealed in the grass. Having arrived at our destination we placed the body in the robe carried it to the culvert where it was found, here we completed the disrobing, then in an attempt to render identification more difficult we poured hydrochloric acid over the face and body. Then we placed the body into the drain pipe, pushed it as far as we could. We gathered up all the clothes, placed them in the robe and apparently at this point the glasses fell from my pocket. I carried the robe containing the clothes back to the automobile, a distance of some 300 yards, and one of the socks apparently dropped from the bundle. We then proceeded north to 104th and Ewing Avenue from where I telephoned my folks telling them I should be a trifle late in arriving at home. We drove

to 47th and Woodlawn and from there I telephoned Franks home. I spoke to Mrs. Franks and told her that my name was George Johnson, that her boy had been kidnapped but was safe, and that further instructions would follow. In passing 55th Street we had mailed a special delivery letter which had been completed except for the address which I printed on it. After taking my aunt and uncle home I returned to my home and after my father had retired Richard and I proceeded to his home where we burned the remaining clothes. Hid the robe and washed ~~the~~ ^{more} the obvious blood stains from the automobile. Then I parked the automobile near my home. The next day at 2:30 Central time or 3:30 Chicago time we were down at the Illinois Central station at 12th Street. Here Richard bought a ticket to Michigan City on the three o'clock train, entered the train, and deposited the letter in the telegraph blank box. In the meantime I called the Franks home and told Mr. Franks to proceed immediately to the drug store at 1465 East 63rd Street and to wait at the easterly of the two public

him a Yellow cab would be at his door to take him. I repeated the number twice and he asked if he couldn't have a little more time, to which I replied no, it must be immediately. About the time I was phoning Richard had returned from the train and we started out south intending to call the drug store from Walgreen's store, 67th and Stony Island. We chanced to see a newspaper lying on the stand with headlines "Unidentified boy found in swamp." We deliberated a few moments as to what to do, Dick thinking that the game was up. I however insisted that it could do no harm to call the drug store. This I did, but was told that no Mr. Franks was in the building. We then went to 68th and Stony Island, another drug store, and again telephoned, we met with the same reply. Then gave it up as a bad job and returned the car to a place where it had been rented. Our original plan had included a relay which was to send Mr. Franks to a Help Keep the City Clean box at the corner of Vincennes and Pershing but we had difficulty in making the envelope stick to the cover of the box as we

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intended, and hence decided to eliminate this relay. Thursday immediately after dinner we drove the car to our garage, and started to clean up the most of the blood stains. Our chauffeur, Sven Englund, noticed us and came out to help. Whereupon Richard told him it was merely some red wine which had been spilled.

"Q Who did clean it up?

"A Dick did most of it and I helped him.

"Q Is there anything else you can think of at this time?

"A No.

"Q Your original plan when you were thinking it out as late as last November, Nathan, did you have anyone at that time that was to be the victim?

"A Nobody in particular. We had considered Mr. Clarence Coleman, also Mr. Walter Baer, Walter Baer, Jr. as the victim, and Clarence Coleman's son.

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"Q When was the plan finally effect d whereby you considered the Franks boy?

"A When we saw him on the 9th by pure accident.

"Q At that time were you waiting for some one else.

"A We had been cruising around watching several groups of boys playing, waiting for somebody to start home.

"Q You had been doing that for how long, Nathan?

"A From about three o'clock in the evening until about five.

"Q And you did not have any boys prior to that time?

"A No.

"Q This day in particular you stayed out with the idea in mind of getting the boy that day, is that it?

"A Yes, sir.

"Q What time did you meet Richard Loeb that day, Wednesday, May 21st, 1934?

"A At eleven o'clock:

"Q Where did you meet him?

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"A At the university.

"Q What did you do after that?

"A Drove down in my car to the rent a car people.

"Q Where is that?

"A That is at 1508 or 10 Michigan Avenue.

"Q Then what did you do?

"A Rent a Willlys-Knight.

"Q At that time?

"A Yes.

"Q Under what name?

"A Morton D. Ballard.

"Q Had you ever rented a car there before?

"A Yes, sir.

"Q Under what name?

"A The same.

"Q When did you rent a car there?

"A About three weeks previously.

"Q And you used it for what purpose?

"A Merely so we would have no difficulty in getting the car the next time.

" Mr. Crowe: Is that the letter you typed?

"A Yes.

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"Mr. Savage: Will you look at that, Nathan?

"A I used - I showed that letter to him and he said that is the letter he typed.

"Mr. Leopold: Yes.

"Mr. Savage: Is that the letter you addressed?

"Mr. Leopold: Yes.

THE WITNESS: As Mr. Sheeder was reading the transcript, this last was an interruption. Savage interrupted asking those questions. Shall I read that again?

MR. CROWE: Yes.

"Mr. Crowe: Is that the letter you typed?

"Mr. Leopold: Yes.

"Q Mr. Savage: Will you look at that, Nathan?

"A I showed that letter to him and he said that is the letter he typed.

"Mr. Leopold: Yes.

"Mr. Savage: Is that the envelope you addressed?

"Mr. Leopold: Yes.

THE WITNESS: Then Sheeder, the reporter continued reading

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the confession as follows:

"Q They handle Willys-Knights and Fords?

"A Willys-Knights and Fords.

"Q Willys-Knights and Fords exclusively, is that right?

"A Yes, sir.

"Q What did you pay overthere?

"A Seventeen cents a mile for Willys-Knights and 15 cents a mile for Fords.

"Q You could keep the car over night?

"A Yes, we made that arrangement Wednesday.

"Q After you got the car what time did you get the car down there that day?

"A At 11:30.

"Q Do you remember who you talked tothere, Nathan?

"A It was one of two men, I don't remember.

"Q Can you remember the names?

"A No.

"Q You would know them if you seen them?

"A Yes.

"Q If I came over there for a car would they require any security?

"A Yesm the first time they made me deposit fifty dollars and the last time thirty five. I was supposed to have an identification card of some sort but I never received it, so I had to look up my old lease number and give that as reference.

"Q What address did you give, Nathan?

"A Originally the Morrison Hotel, went down and rented a room and left a suitcase in it, and sent some mail there for the purpose of having mail addressed to that address. When we went down to get our mail on the subsequent day the suitcase had been taken, apparently the fact the beds had not been used was noticed and some suspicion occurred. The suitcase had been apparently confiscated and I therefore telephoned the Rent-A-Car people we had changed our address to Oakwood and Grand.

"Q You phoned over immediately that that was your new address?

"A Yes, sir.

"Q Did you ever get your suitcase, Nathan,

from the Morrison Hotel?

"A No.

"Q Did you register at the Morrison Hotel?

"A I did not, Richard did.

"Q Under the name of.

"A Morton D. Ballard.

"Q What day was that, do you remember, Nathan?

"A That was just prior to us getting the first car, I would say two or three weeks before.

"Q Whose suitcase was it?

"A Dick's.

"Q You never applied for the suitcase after that?

"A No, I figured the suitcase was worth less than what we owed.

"Q What kind of a suitcase was it?

"A It was a dilapidated suitcase, I could not describe it very well.

"Q Did you have anything in it?

"A I think there was some library books in it.

"Q You went then to this -- what is the name of that hotel?

"A The Tremier Hotel.

I had expected to stop there, but

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changed my plans and asked them to hold mail coming for Morton D. Ballard. I stopped there on a number of occasions after that, I would say as much as half a dozen times, and never did get any mail from there. This seemed very peculiar inasmuch as Richard addressed two letters to the Tremier Hotel and they were never received.

"Q Did you get the letters back?

"A No, no return address on them.

"Q Went in the dead letter office?

"A I do not see why they should have. We followed them up two days afterwards.

"Q You say you did stop there several times after that?

"A Yes, sir, a number of times.

"Chief Hughes: Q You stopped, went over for the mail?

"A Yes.

"Q You did not register there?

"A No.

"Mr. Savage: At no time you registered there?

"A No.

"Q Did you ever register in any other hotel, Nathan, during this period?

A No, I further opened a bank account in the Hyde Park State Bank at the corner of 53rd and Lake Park.

"Q Under the name of Morton D. Ballard?

"A Yes, sir.

"Q How much money did you deposit there?

"A One hundred dollars.

"Q Have you drawn that out since that time?

"A Yes.

"Q Was it a checking account?

"A Checking account.

"Q And you have no balance in the bank now?

"A No, sir.

"Q That was opened up there during your negotiations with the deal on Michigan Avenue?

"A Yes, sir.

"Q What was that name again?

"A Rent A Car.

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"Q That was for the purpose of --

"A Having a good identification.

"Q This day you went down there for the car, who drove the car out?

"A I did.

"Q Where was your car at that time?

"A Dick had my car just east of Michigan Boulevard.

"Q When you left there what did you do?

"A We drove up together, or rather we each one-- we each drove one car up to Kramer's restaurant at 35th and Cottage.

"Q Kramer's restaurant at 35th and Cottage Grove?

"A Yes, sir.

"Q That was on Wednesday, the 21st?

"A Wednesday, the 21st.

"Q 1924?

"A 1924.

"Q May 21st, 1924?

"A Yes.

"Q Kramer's restaurant is where?

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"A 35th and Cottage Grove Avenue.

"Q What did you do at that time?

"A Had lunch there.

"Q You had lunch at the restaurant?

"A Put up the side curtains on the rented car.

"Q About what time was that?

"A I imagine we got there about 12:15.

"Q What time did you leave there?

"A It must have been one or a little later.

A little after.

"Q When did you put up the side curtains?

"A Just before coming, before coming into there to eat.

"Q After you came out what time did you come out of there?

"A We left after one.

"Q Then what did you do?

"A We drove to my home and I put my car in the garage, then we drove over to Ingleside Avenue just south of a blind alley south of 47th Street.

"Q What time did you put your car in the garage that day?

"A I should say at about one twenty or one thirty.

"Q In the afternoon?

"A Yes.

"Q And where was the other when you put your car in the garage?

"A The other car was right in back of mine because we wanted to fill it with gas.

"Q In the driveway?

"A Yes.

"Q You brought that in and filled it with gas, did you?

"A Yes.

"Q And left your car there? A Yes, sir.

"Q Then what did you do?

"A Then we drove over to Ingleside Avenue, which is south of the alley, south of 47th Street.

"Q While you were filling the car up with gas, did you see anyone around the garage there?

"A I don't remember if Sven came down then or not.

"Q Did you see Mr. Sven or Mrs. Seven there?

"A Mr. and Mrs. Englund, I am under the im-

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pression that Mr. Englund was there, I am not sure.

"Chief Hughes: You talked about the brakes being bad on ~~that~~ car?

"A Yes, on my car. It was on that occasion that they squeaked, and he put on oil and he w me about going out after they had been oiled.

"Q After you filled the car with gas what did you do?

"A I drove to this spot on Ingleside Avenue.

"Q About what time?

THE COURT: The same question applies, the same matter applies in this confession. The court has not given it attention, in fact can not give it the attention it deserves while reading the record, and I will want a copy of it handed to me so I can read it at my leisure, and it may be considered when I am summing up the evidence. We can not get through before one o'clock, so we will suspend now. We will suspend now until two o'clock.

(Whereupon an adjournment was taken until Tuesday, July 29th, A. D. 1924, at the hour of 3 o'clock P.M.)

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Tuesday, July 29th, 1924,

2:00 o'clock P.M.

Court convened at two o'clock P.M. Tuesday, July 29th, 1924, pursuant to adjournment heretofore taken.

Present: Same as before.

E. M. ALLEN, resumed the stand as a witness:

MR. CROWE: Mr. Bachrach, I think there was a little confusion here this morning when the statement was being read, the statement that he took that the other man wrote down.

MR. BACHRACH: It wasn't put in that way.

MR. CROWE: I will put Sheeder on later to show that he transcribed this correctly.

MR. BACHRACH: All right.

MR. CROWE: We might as well continue this.

MR. BACHRACH: All right.

MR. CROWE: I understand he was reading the confession that was being read off, he was reading it to the other man who was taking it down, and that it is Sheeder's work that he is now reading. I will put Sheeder on and let him testify that it is a correct

copy.

MR. BACHRACH: All right.

MR. CROWE: All right. Will you proceed now?

THE WITNESS: I left off with a question.

Q After that what did you do?

A We drove to this spot on Ingleside Avenue.

Q About what time?

A It must have been about a quarter to two.

Q Then what did you do -- you drove where you say?

A To a point just south of the alley, south of 47th street, Ingleside.

Q You drove to a point which is south of the alley, south of 47th Street?

A Yes. I waited in the car.

Q On Ingleside?

A On Ingleside.

Q What is there, anything?

A Apartment buildings. I waited in the car there while Dick went through the alley to a place where he could either command a view of Harvard School, or if he saw any likely looking children he could start playing with them. After some

"time, I should say around three, several of the groups of boys playing in the afternoon with the so-called tutors had left for a vacant lot on 49th and Drexel. We followed them up there, I having made a stop at home for my field glasses in the meantime.

Q And what time was that?

A Around three or three fifteen and we parked on the opposite side of Drexel Boulevard, that is on the west side of Drexel Boulevard and watched these children at play. We also sneaked around on foot to the front, behind a lot, where we could observe without being seen. We also had another group of boys spotted in a lot just across the street from my home, 48th and Greenwood. We waited around until about a quarter of five, that is four thirty I should say, when the gangs broke up, but one of the boys had run down the alley, as we thought merely in play, and would be back. Apparently they had greatly ~~xxxxx~~ disappointed us. We missed our opportunity of following any of them home. We then went down Lake Park to 41st Avenue where

"an acquaintance of Richard Loeb's who had a son who might be expected home at that time.

Q Do you remember the name?

A Levinson.

Q Do you know the address?

A No, it is Sol Levinson, a lawyer, 41st and Lake Park. We repassed the lot on Greenwood, 48th and Greenwood, came over 48th Street to Ellis -- no, we came over 49th street to Ellis, it was 48th street to Ellis, and here Dick spied Robert Franks. He was at that time north of 48th Street on Ellis Avenue on the west side of the street.

Q You are sure it was on the west side of the street?

A Positively, walking south on the west side of the street.

Q Then you were where at that time?

A We were at 48th and Ellis.

Q On 48th or Ellis?

A On 48th.

Q Facing what direction?

Q On what side of the street would be it, on the east side?

A We were driving down there, we immediately turned around and about the time that we had turned around and given Robert a chance to get a sufficient distance from another pedestrian on the street he was almost at 49th Street. It was here that we picked him up.

Q You turned your car and started south on Ellis Avenue, is that it?

A Yes, south on Ellis Avenue.

Q On the west side of the street?

A On the west side of the street.

Q Robert Franks was at 49th?

A He was almost at 49th.

Q On Ellis?

A Yes.

Q Was he on the northwest corner, approximately?

A Not quite.

Q You hadn't had a chance to cross?

A No.

Q And you drove up alongside of where he was?

A Yes.

"Q And what happened?

A Then Dick opened the front door and yelled "Hey, Bob." He came over to the car and Dick asked him if he couldn't give him a lift home. He declined, but Dick said, 'Come in a minute, I want to talk to you about a tennis racket.'

Q That was the time he got into the car,

A Yes.

CHIEF HUGHES: Q Where were you sitting at that time?

A I was sitting at the driver's wheel, Dick was in the rear seat.

Q What time was it, approximately, Nathan?

A Between five and five fifteen.

Q That was when you proceeded on your journey?

A Yes.

Q You went south then to 50th Street?

A South to 50th.

Q And east on 50th?

A East on 50th to I believe, Dorchester or Blackstone.

Q When was the first time that Richard struck

Robert with a chisel, do you know?

"A Between Ellis and Greenwood on 50th.

Q Had he become suspicious of anything when you returned for him at that time?

A No, because Richard asked him if he minded if we took him around the block, to which he replied no.

Q That was the original plan, to take him so no one would see him?

A Yes sir.

Q And after you made this trip out in the country and came back, what time did you get back?

A Get back to where?

Q To your home?

A Ten thirty.

Q You still had the car that you had rented from the Rent-A-Car company?

A Yes sir.

Q Was that the car that you drove your folks home with?

A No.

Q What did you do with the rented car?

A I parked it on Greenwood Avenue just north

"of our driveway.

Q On Greenwood Avenue?

A On Greenwood Avenue.

Q And you had your own car in the garage?

A I got my own car in the garage and drove around to the side it was.

Q Then what did you do with your other car when you came back?

A When I took Dick home -- let me see. God, I think they were in my car, because that chisel was thrown from my car, wasn't it? How could that have been accomplished? I am not quite clear on that point. But what he must have done was take the bundle -- no, we didn't do that either, because I remember washing the other car.

Q That was the car that you rented?

A Yes, we must have taken the rented car.

MR. SAVAGE: Q You must have taken the rented car and driven out 50th Street? In other words, that was after you came back?

MR. LEOPOLD: yes, I was around there until one o'clock.

" Q That was after you got back?

A Yes."

THE WITNESS: Mr. Leopold says, "Yes, I was around there until one o'clock," then the reading continues:

"Q That was after you got back?

A A Yes. I was around there until one o'clock.

Q Where did Richard wait for you?

A At my home.

MR. SAVAGE: Q What did you do with the rented car then?

A Washed it fairly thoroughly there.

Q When, that night?

A One thirty, yes.

Q Whereabouts?

A On 50th Street at the gate to Loeb's.

Q What did you wash it with?

A We found a bucket with some water and a brush and some soap.

Q Where?

A In Loeb's basement.

Q Then you came out and washed it?

A Yes sir.

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"You were unable to get all the stains off?

A Well it was at night and we didn't want to be monkeying around too much.

Q Where did you take your car to get some of the blood stains off?

A No place.

Q You drove the car in some place to get some of the blood stains off?

A No, that was the next day in our garage .
It was still Wednesday night you see.

Q What did you do with the rented car that night?

A I drove it back to the place previously occupied, which is just north of our driveway, and stood it in front of an apartment house.

Q That was at one thirty?

A One thirty.

Q After you drove your aunt and uncle home in your car and came back what did you do in the house then? Richard Loeb was in the house?

A Went in and had a few drinks, sat and talked with Dad.

Q About what time was that?

Q Then what did you do?

A Dad retired about eleven thirty or twelve, and we had a few more drinks and left about one o'clock.

Q Did you play any cards while you were there?

A Yes sir, I think we played two games of casino for fun.

Q Well what did you do after that?

A We went over to Dick's house with the clothes.

Q The clothes in the rented car?

A Yes sir.

Q And those were out in the rented car all the time?

A Yes.

Q In a robe?

A In a robe.

Q When you got to Dick's house what did you do?

A We went in the basement and burned the clothes. We intended burning the robe, it was too large to fit in and would have caused an awful stench. Right after making that phone call to Franks, we were in the rented car, we drove over to Loeb's then in the rented car, burned the clothes, washed the blood stains, then took the rented car

"to my house and left it there, then I got my car out and took the folks home in that. Then after I got back to my house I still had that car, when I took Dick home it was in that car, and it was then we threw the chisel out.

Q When you took Dick home you took the rented car, or your car?

A My own car.

Q What actually happened there when you came in the first time?

A We had disposed of the clothes.

Q You had disposed of the clothes in the car?

A Yes sir.

Q And left the robe hidden in the car?

A No, I had left the robe hidden in some brush there.

Q You mean outside?

A Out doors, yes.

Q And Dick had the chisel in his possession?

A Yes sir.

Q And when you changed cars he just took it from one car to another car?

"A Yes.

Q Did he leave that in the car or not?

A I don't believe so, no.

Q Where did he throw the chisel out at?

A It was over there between 48th and -- or between 49th and 50th I think, on Greenwood.

Q After you left Richard there and came back you put your car in the garage, did you?

A yes sir.

Q Then what did you do?

A I turned off the parking light on the parked car and went to bed.

Q Then what did you do?

A The next morning I got up and went to school as usual at eight o'clock."

THE WITNESS: Mr. Crowe asked a question, "what morning is that", and Mr. Leopold says, "Friday or Thursday."

"MR. CROWE: Then what did you do?"

THE WITNESS: Then the reading continues of Leopold's statement:

"Q Then what did you do?

A The next morning I got up and went to school as usual, at eight o'clock, I met Dick at eleven.

"Q Where?

A At the University.

Q You had made arrangements the night before to meet the next day?

A Yes sir, we drove down to my house, and it was then that we drove the rented car to the garage to clean it up more thoroughly.

Q In your garage?

A Outside of my garage, but in my driveway.

Q What did you clean it up with?

A With soap and water and some gasoline and a brush.

Q Did anyone help you clean it up?

A Sven tried to, but we told him it was all right, that we were all through.

CHIEF HUGHES: Q Was there any remark made then with reference to the blood stains in the car?

A Yes, Dick was afraid that possibly Sven had seen these blood stains and he said it was some red wine.

Q He told the Chauffeur that?

A Yes sir.

MR. SAVAGE: Q Who drove the ~~taxi~~ ^{rented} car downtown?

Q A I drove the rented car downtown.

Q And Dick drove your car, did he?

A Dick drove my car.

Q Then you went down, and how much did you pay, do you remember, for the use of the car?

A This was Thursday, was it?

Q Yes.

A Wait just a moment. We cleaned the car out. Where did we eat that day? I have forgotten where we ate, we stopped some place for lunch and we didn't have my car until we both drove the rented car.

Q You didn't have your car at all?

A No, my car was in the garage and we drove down to the 12th Street Illinois Central Station, and the rest of the account is contained in the previous part.

Q With the rented car?

A Yes sir.

Q When did you return the rented car?

A We returned the rented car about five or five thirty.

Q How much money?

" A Twenty-five dollars and some cents on it.

Q And he gave you the balance of your deposit back?

A Yes sir.

CHIEF HUGHES: You drove the rented car, both of you, to the I.C. Station?

A Yes, and then drove back south. After we had found that Mr. Franks was not at the drug store we drove to my house, got my car, and Dick drove my car down, while I drove the rented car down. Dick parked on Wabash Avenue just south of 14th Street while I returned the car.

MR. SEWAGE: Q About what time was that?

A Between five fifteen and five thirty. When we returned we stopped to get a soda at the drug store.

Q Whereabouts?

A 47th and Ellis. I met Mr. Mitchell at that time.

Q You had a conversation with him?

A I had a conversation with him. I took Dick home and on the way back stopped and bought a paper at 48th and Ellis which told about the fact that this

"boy was Franks and went home.

Q Then what happened?

A I got supper. I stayed at home studying law.

Q Did you see Dick the next day?

A The next day was Friday, yes.

Q Was that the time you had the conversation of what you would say in the event you were called in?

A I am not sure if it was then or not. We discussed that a number of times.

Q Prior to the happening or after the happening?

A Possibly after that, I couldn't be sure.

Q You discovered there was a pair of glasses found out there, Nathan?

A Yes.

Q You learned that through a newspaper?

A Yes.

Q Then you and Richard Loeb had some conversation about the glasses and so forth?

A Yes sir.

Q You contemplated at that time that you would be called in and asked about it?

A Yes sir.

Q In the event they were found. You never thought they would find the owner of the glasses did you?

A No sir, I did not.

Q You were called in by --

A Captain Wolf.

Q What did Captain Wolf ask you?

A Captain Wolf wanted to know whether I had visited the particular area frequently, whether there were many ornithologists whom I knew, or fishermen, particularly among the members of the Harvard School, or its faculty. Also whether the Franks had been interested?

Q You gave him the information?

A Yes.

Q Did you mention the fact to him at that time that you had worn glasses?

A Yes.

Q He never asked you to produce your glasses?

A No.

Q Were you able to remove all those blood stains?

A Almost entirely.

"Q Enough so that it was not noticeable?

A Yes.

Q What time was it, Nathan, now, you saw the newspapers announcing that?

A About six o'clock.

Q This chisel that was thrown out of the car by Richard that you told about, Nathan, that had what kind of tape on it?

A Zinc oxide.

Q Where did you get that tape from, from home?

A In the bathroom.

Q This was the tape you were telling me about that your brother had in the bathroom when you walked in?

A Yes.

Q Did you take the whole roll of it?

A Yes.

Q Where did you leave the rest of it?

A We had discussed that, Dick and I, and we think it must have been in the car.

Q Did you put the tape on near the sharp end or the blunt end?

" A The sharp end.

Q Using the head of the chisel, or the blunt end I guess you would call it, for the purpose of --

A Striking.

Q Which end did Richard strike with, do you know? Did he strike with the sharp end or the other end?

A He struck with the other end. That is why I cannot explain the blood stains. Well, probably the blood was rather effusive.

Q You don't know whether it was the other end or not, do you?

A Yes I know.

Q You know it was the blunt end he was struck with?

A Yes sir.

CHIEF HUGHES: Q Where did the chisel come from?

A From a hardware store between 45th and 46th on Cottage Grove Avenue.

MR. SAVAGE: Q Who bought the chisel?

A Dick.

Q That same day?

A No, I think he bought that a few days previously.

"Q For that purpose?

A Yes.

Q At a hardware store where?

A 45th and 46th on Cottage.

Q Do you remember what you paid for it?

A I think it was seventy-five cents.

Q Which one of you bought it?

A Dick.

Q You bought that two or three days before?

A I think so, yes.

Q How did you carry it around with you?

A As I recollect, we put it in the pocket of the rented car. I think we bought that on the very day, on Wednesday the 21st, I am almost sure of that now.

Q The same day?

A Yes sir.

Q That was the day you went in and got the tape in the house?

A Yes.

Q Now the time you first started to wear glasses was when, Nathan?

" A In October or November, 1923.

Q And who was your doctor that prescribed the glasses?

A Emil Deutsch.

Q And he is located where?

A ~~30th Street~~ 30 North Michigan.

Q And the one who filled the prescription?

A Almer, Coe.

Q How long did you wear the glasses, Nathan, afterward?

A Until February or March.

Q 1924?

A 1924.

Q Then you sort of discontinued wearing them, is that it?

A Yes sir. They had actually remained in the pocket of the suit which happened to be this suit.

Q The suit that you have got on now is the suit you wore the night you placed the body there, is that it?

A Yes sir.

Q After you started out there Nathan, did you remove your clothes at all while you were placing

the body?

" A My coat, yes.

Q Just how did you place the body in the drain pipe, just explain how you placed the body there?

A I think it was head first. I had a pair of rubber boots.

Q Where did you get the rubber boots?

A My own.

Q Did you take them from your home?

A Yes sir,

Q That day in this rented car, did you?

A Yes, put them on right at the culvert where I stepped into the water, took the feet of the body while Dick took the head end and the hands, and when it struck the water, pushed it in, gave it a shove as far as I could.

Q Was it much of a job, Nathan, to push the body in?

A At first I thought it was rather doubtful whether it would fit at all, but after it once started it was not hard at all.

Q Then after you pushed it in as far as you could push

it in with your hands, Nathan, you used your

"feet and pushed it up further?

A Yes.

Q Had rigor mortis set in at that time?

A Yes.

Q At the time you had taken ~~my~~ your coat off ~~had~~ did you lay it on the ground some place?

A Yes, right by my shoes.

Q That is not the time you lost your glasses?

A No, that is not the time. Dick had run across the railroad track to see if anybody could be seen from the other end, and I went up to the top of the railroad track, for some reason or other, to put on my shoes, and he brought my coat to me. I think we struck a match -- no, we had a flashlight with us, and it must have been at that time that the glasses fell out.

Q What time was it, again, that you put the body in the drain?

A About nine thirty or nine twenty.

Q Dick brought your coat up to you where you were putting on your shoes?

A yes.

Q Now this letter, Nathan, that you had already

"prepared in an envelope without any address on it, you had prepared that letter some time prior to that time?

A Yes.

Q Just when did you prepare that letter?

A Four or five days ahead of time.

Q No one, definitely, as to whom you were going to send it to?

A No, just "dear sir".

Q But the address you placed on later on?

A Yes. It was not addressed inside, it was just dear sir.

Q You didn't send that additional letter that was supposed to be sent about committing suicide?

A No.

MR. CROWE: Well I think" --

THE WITNESS: Mr. Crowe says, "Well, I think that will be enough. Are there any corrections you wish to make." In reading the confession it was not quite through, and we stopped there where Mr. Crowe says "Well, I think that will be enough, are there any corrections you ~~wish~~ wish to make".

"LOEB: There are certain corrections that Leopold has made in mine that are not important, such as 14th street, and the boots being his, instead of his brother's, which don't amount to a damn, I mean it don't make any difference, they are not important, and don't affect the case. However, I wouldlike to say this:

In the first place he says that that chisel was wrapped by me. It was wrapped by him, and wrapped by him in Jackson Park. He brought it in and put it in the car and he wrapped that chisel while waiting there in Jackson Park in that little nine-hole golf house. All right.

In the second place he mentioned that the idea of the thing, that the main thing was to get the place and the means of throwing that package, and he stuck on that thing in the ~~xxxx~~ train, and it was his idea. But he doesn't mention the method of the killing, that he had that very well conceived and planned out, as evidenced by the ether in the car, which was absolutely the notion that he followed through. The boy was to be

"etherized to death, and he was supposed to do that, because I don't know a damn thing about it and he does. He has a number of times chloroformed birds and things like that, and he knows ornithology. I don't know a damn thing about that.

He said the time was November when the idea was first conceived. Well now, I don't know exactly, I believe I said two months in my statement. I know right well it was not November. It may have been a little bit longer than two months it might have been two and a half months, but it certainly was not any longer than that.

There are one or two other minor things that he mentioned. For instance, he said he drove the red car downtown. No, he says he drove the rented car downtown. I don't know, I got that mixed up. Which did you say? When you left your house on Tuesday afternoon were you driving the red car?

MR. LEOPOLD: The rented car.

MR. LOEB: Well, you were not, you were driving the red car. I will show you why you were, be-

"cause I didn't know exactly where that place was on Michigan Boulevard. I don't to this day. If I was to drive down Wabash, I don't know the streets. You know exactly where it was. You drove the red car, you went ahead of me and I followed you, and where you parked the red car I stopped up alongside of you in the red car and picked you up, you just got out of your car into my car. I stopped next to you, I was following you all the time in the rented car. You had the red car and drove the red car and parked it there. So there are one or two other things. In the first place I never touched that body after the hydrochloric acid was poured on that body. After the hydrochloric acid was poured on that body you stepped into that culvert with your boots on and you took hold of the feet and gave the body a push and the body splashed in there and it splashed on your pants too, and you worried about it.

MR. CROWE: Who hit him with a chisel?

" MR. LOEB: He did.

MR. CROWE: Who is 'he'?

MR. LOEB: Nathan Leopold, Junior. Hewas sitting up in the front seat. I said he was sitting up in the front seat. I mean I was sitting up in the front seat. That is obviously a mistake, I am getting excited. This Franks boy got up in the front seat. Now he was a boy that I knew. If I was sitting in the back seat he would have gotten into the back seat with me. He was a boy I know, and I would have opened the door and motioned him in that way. As it was, he got in the front seat with me because I knew the boy and I opened the frontdoor. He didn't see Babe until he was inside the car. He stood at the same place. I introduced him to this Franks boy and then took him into the car. I took him into the car and when he got in the car I said, 'you know Babe? This is Bobbie Franks'.

And then one thing I wish to point out. I have been made a fish right along here. Now this story that you speak of in your testimony, **this story of the finding of all this alibi,**

"all these women, and being drunk in the Coconut Grove and everything, we planned that definitely. It was definitely decided that the story was not to go after Wednesday noon, which would be a week after the crime. We were to protect our story. We were to just say that we didn't know what we were doing, and there was no evidence. We felt that you were safe with your glasses after a week had passed, that your glasses being out there would not necessitate an air-tight alibi, because we didn't figure anything else, and we figured that you would be safe enough after a week not to know exactly where you were on that particular Wednesday afternoon.

MR. CROWE: Who felt that?

MR. LEOPOLD: I told the same story exactly here to Mr. Savage.

MR. CROWE: All right.

MR. LOEB: When you came down Thursday and you told another story which you had agreed not to tell, I came down to Mr. Crowe and he questioned me, and questioned me about my actions and everything else, and I denied ever being drunk, I de-

"nied being with you, Leopold, and I denied being up at the Cocoanut Grove, ^{being put together} and those things/made me absolutely certain that you had told the stories you shouldn't have told.

Then he started to talk about the Park, about being out at Lincoln Park. He mentioned parks. He brought it around, but I knew what he was driving at. That was Lincoln Park, and when he did that I stepped in to try to help you out.

I think it is a damned sight more than you would have done for me. I tried to help you out because I thought that you at least, if the worst comes to the worst, would admit what you had done and not try to drag me into the thing in that manner. Well now, that is all I have got to say.

MR. SAVAGE: Have you got anything to say to that?

MR. LEOPOLD: yes, I have.

MR. SAVAGE: Nathan wants to say a word.

MR. LEOPOLD: His correction about what car I was driving down I think is correct. Those are all absurd dirty lies. He is trying to get

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"out of this mess. I can explain to you myself exactly how I opened the door to let the Franks boy in, and he got up from the back seat, leaned over forward and spoke to the boy from the back. I was driving the car, I am absolutely positive. The reason for changing that story was, as you remember, when you first questioned me as to my actions I was very indefinite, and I was urged to remember, quite strongly, what I had been doing, and I am sorry that you were made a fish of and stepped into everything and broke down and all that, I am sorry, but it isn't my fault. All the rest of the corrections he made, with the exception of that one of the car, are lies.

MR. CROWE: Now listen, boys?

MR. LEOPOLD: Yes.

MR. CROWE: You have both been treated decently by me?

MR. LEOPOLD: Absolutely.

MR. CROWE: No brutality or no roughness?

MR. LEOPOLD: No sir.

MR. CROWE: Every consideration shown to both

of you?

"MR. LEOPOLD: Yes sir.

MR. CROWE: Not one of you have a complaint to make, have you?

MR. LEOPOLD: No sir.

MR. CROWE: Have you, Loeb?

MR. LOEB: No."

THE WITNESS: That is all of that.

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MR. CROWE: Now, if your honor please, we have the statement that was made by the Defendant Richard Loeb and taken down in shorthand notes by F. A. Sheeder, and that was read by Sheeder to both the defendants Loeb and Leopold in my office, in the presence of myself, Joseph P. Savage, John Sbarbaro, Robert E. MacMillon, Lawrence A. Cuneo, Samuel A. Ettelson, Chief Hughes, Captain Shoemaker, Gortland, Johnson and Lang, police officers, William R. Swissler, George Moxley and Mr. Allen, who reported everything that Sheeder read or that any of the persons present said.

MR. CROWE: Q Now, Mr. Allen, you were in my office at the time this statement was made?

A Yes sir.

Q And read by Sheeder, and you reported accurately all the things that were either read or said by any person present at that time?

A Yes sir.

Q And you have transcribed your notes and you have the transcript in front of you?

A Yes sir.

Q And that is a correct transcript of what you reduced to shorthand that morning?

A Yes sir.

MR. CROWE: Will you read that?

THE WITNESS: "MR. SBARBARO: Q State your full name?

A Richard Albert Loeb.

Q Where do you live, Mr. Loeb?

A 5017 Ellis Avenue.

Q What is your occupation?

A Student.

Q Where are you a student?"

MR. CROWE: Just a moment. This witness has been

reading pretty constantly for a long while and I will

ask somebody else to relieve him for a while?

THE COURT: Yes.

MR. CROWE: Will you, Mr. Sbarbaro? There is no objection to that, is there?

MR. BACHRACH: No.

Whereupon Mr. Sbarbaro here read the statement of Richard Loeb referred to, in the words and figures as follows:

"Where are you a student?

A University of Chicago.

Q How old are you?

A Eighteen.

Q You know now that you are in the office of the State's Attorney of Cook County?

A Yes sir.

Q And you want to make a statement, of your own free will?

A Yes.

Q Calling your attention to the 21st day of May, just tell us in your own words if you

"know of anything unusual relative to the disappearance of Robert Franks?

A On the 21st day of May Leopold and myself --

Q What is his full name?

A Nathan Leopold, Junior, and myself intended to kidnap one of the younger boys from the Harvard School.

MR. GROVE: Mr. Loeb, when you say Leopold, do you refer to this young man here?

A Yes.

Q Where had you planned this kidnapping?

A You mean what?

Q Where had you discussed it first?

A Oh I don't know, I don't remember. I don't remember when it first came up.

Q Well approximately how long before the 21st of May had you discussed it?

A Oh a month and a half I should say or two months. A month and a half or two months.

Q All right, go ahead.

"A It was broached, the plan was broached by Nathan Leopold, who suggested that as a means of having a great deal of excitement, together with getting quite a sum of money.

Q And adventure, as you would say?

A Yes. We planned the thing quite carefully, every detail was planned. His car --

Q What kind of a car does Nathan Leopold have?

A A Willys-Knight sport model, red in color. His car is very conspicuous, and for that reason we deemed it inadvisable to use it, and therefore decided to get a car -- rent a car from the Rent-a-Car people. Also in view of the fact that such a car, if obtained under a false name would not be incriminating, were it to be discovered in connection with the crime.

Q So what did you do in connection with the car?

A So in order to assume a false name and a real identity, we went and Leopold deposited \$100 at the Hyde Park State Bank under the name of Morton D. Ballard from Peoria. Following out the same plan, I went down to the Morrison and registered

"under the name of Morton D. Ballard, carrying with me a suitcase, an old suitcase containing some books.

Q Where did you get the books?

A From the University of Chicago Library.

Q And the purpose of taking these books in that suitcase to the Morrison Hotel was to lead them to believe that you really intended to live there?

A Yes.

Q And had some clothing of some kind?

A Yes. We addressed several letters to the Morrison Hotel under the name of Morton D. Ballard.

Q So that you might receive them?

A So that we might receive them; and on the following day I went in and got those letters.

Q That is, you would call for those letters on the following day?

A Yes, the day after that, and I am practically certain that is what it was, it was the third day -- the day after we went -- pardon me, down to the Rent-a-Car people.

Q For the purpose of fixing the time, that was about when?

" A About eleven o'clock in the morning.

Q I mean, about the twentieth day of April?

A Yes. I am not sure of the time, I mean the date. I wouldn't swear to that. The twentieth of April, how long is that?

Q Just about a month before.

Q ^{Yes,} /About a month. Leopold went in alone with four hundred dollars in his pocket, which I had drawn from my account in the Hyde Park State Bank, and with the letters sent to Morton D. Ballard at the Morrison" --

MR. CROWE: If there is any discrepancy in this statement you correct it as you go along, will you please?

(Continuing reading) -- "as with also his check book -- not check book, his bank book from the Hyde Park State Bank. He told the Rent-a-Car people that he was a salesman ~~and~~ new on the route, that was the first time he had covered this district, he was a salesman from Peoria, and that the only person he knew in Chicago was a Mr. Louis Mason. He told then this, because the Rent-a-

"Car people demand three in town reference, in order to take out a car. However, he wanted to persuade them to give him the car, anyhow, in view of the fact that he was new, and that Mr. Louis Mason would vouch for him, and also because he would be willing to deposit \$400 there if necessary in order to get the car.

I was posted in a little restaurant or cigar store on Wabash Avenue. Do you want the exact name?

Q Yes, if you recall the address?

A This cigar store is a little bit north of 16th street on the west side of ~~Kxxx~~ Wabash Avenue. I went in this cigar store and sat near the public phone booth whose number Leopold had, and he told them this was the number of Mr. Louis Mason. The Rent-a-Car people called up, and I immediately answered the phone and told them that I was Mr. Mason.

Q You are in this cigar store now, or in the vicinity of 16th Street, near the Rent-a-Car people?

"A Yes.

Q And you placed yourself at the booth?

A Yes. The phone rang, and I immediately answered the phone and the Rent-a-Car people asked me if I was Mr. Louis Mason. I said, "Yes". They asked me if I knew Mr. Morton D. Ballard of Peoria; I said, "Yes", They asked me if he was dependable. I said, "Absolutely dependable." That was the end of the conversation.

Q You were then posing as Mr. Ballard?

A No, I was posing as Mr. Louis Mason; Leopold succeeded in getting the car and told the Rent-a-Car people to forward the identification card which they demand as necessary to get a car any time without the trouble of getting references over again; and everything, he asked them to forward this identification card to the Morrison Hotel. We took the car out that morning at eleven and returned it at four.

Then we went down to the Morrison Hotel and I went inside to check out. I went up to the room, and found the suitcase had disappeared from the room.

" Q You have reference to the suitcase which you had taken in there when you registered?

A Yes. I realized then that the maid must have gotten suspicious due to the fact that the bed had not been slept in either night, and with her suspicions aroused that she had opened the suitcase and found only those books in the suitcase. Therefore, I immediately left the room and left the hotel.

We then phoned the Rent-a-Car people and told them to forward the identification card to the Trenier Hotel.

Q That is located where?

A At the corner of Oakwood Boulevard and Grand.

Q Did any mail come forth from the conversation?

A No. In order to assume some sort of an identity there, Leopold went in and told them that he was Morton D. Ballard, that he had intended stopping at the Trenier but that he was not going to and that if any letters came for him there, they should hold them at the Trenier Hotel.

We mailed two letters at the Trenier Hotel

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"to Morton D. Ballard, at the Trenier Hotel, in order that the clerk would think that there was someone expecting mail there so that when the card came from the Pont-a-Car people it would be safe.

However, neither the card from the Rent-a-Car people nor, curiously enough, our own letters, which we knew we had mailed to the Trenier Hotel, arrived there.

Q Now on the twenty-first day of May, 1924, just tell where you met Leopold and what happened? State it in your own words.

A On the 21st of May I met Leopold out of school at eleven o'clock -- wait a minute, perhaps I had better start with the 20th of May.

Q Very well.

A On the 20th of May Leopold and I purchased at two hardware stores on Cottage Grove Avenue some rope --

Q In what vicinity was that?

A Cottage Grove Avenue. Both of the hardware stores I believe (although I am not certain) were

"somewhere out there shortly north of 43rd Street. The hardware store where we purchased the rope was further north than the hardware store where we purchased the chisel. I purchase, myself alone, both the chisel and the rope.

We then proceeded down the street to a drug store, where Leopold tried to purchase hydrochloric acid. He was unsuccessful at that drug store so went a little bit further south. I don't know the exact number where he succeeded in purchasing a bottle of hydrochloric acid.

Q Where did you get the gags?

A The gags were at Leopold's house.

Q You didn't get them on the same day that you purchased the chisel and the hydrochloric acid and rope, did you?

A We got them ready at his house.

Q All right. After purchasing these different articles what did you do?

A We proceeded to his house where we got everything in readiness; some ether that he had at his house, the ropes and the rags to be used as gags,

"the chisel which he bound with adhesive tape on the sharp end and some hip boots that I believe belonged to his brother.

Q Where did you get those hip boots?

A I believe they belonged to his brother. They were at his house.

Q This is all, now, with reference to the twentieth day?

A Yes, everything was gotten in readiness. I believe also that on that day the various notes and telephone messages,-- pardon me, the various notes, were written on the typewriter for Mr. Franks .

Q Did you see him write any notes on the typewriter?

A Yes, I saw him write all of them.

Q What notes do you have reference to?

A I have reference to the note demanding the ten thousand dollars in ransom.

Q What kind of a typewriter was that?

A An Underwood Portable typewriter.

Q On a portable Underwood typewriter?

Q And what was the essence of that note?

A The essence of that note demanded ten thousand dollars and told Mr. Franks that his son was safe; specified a certain way in which that money should be wrapped, in a cigar box, told Mr. Franks that everything would be all right, the son would be returned to him within six hours if he obeyed our instructions, if he disobeyed any of the instructions, that his son would be killed.

Q Now, who composed that note?

A The note was composed jointly.

Q And it was typed by Leopold?

A Yes.

Q Do you recall the words used in that note?

To the best of your recollection, what were they?

A "Dear Sir: You no doubt know by this time that your son has been kidnapped. Please follow our instructions carefully, and nothing will happen to him. If you don't follow our instructions to the letter, you will never see your son again."

Then there was a No. 1, and 'Go down to the bank and get ten thousand's -- no, that wasn't

"it, wait a minute. The No.1 was: 'Do not communicate with the police; if you have already done so, please do not mention this letter.

'No.2. Go down to the bank and get ten thousand dollars in old bills. Be sure that the bills are old.'

Q Did you specify any denominations?

A Yes. 'Any new or marked bills will^{be}/noticed. Get two thousand dollars in twenty dollar bills, and eight thousand dollars in fifty dollar bills.

'3. Be home by one o'clock. Do not let the phone be used.'

Q Is that all?

A There was at the end, I don't remember.

Q Do you recall any other note that was written that day?

A I think the other two notes were written on that same day. All the notes and the telephone messages had been written in a rough draft some days before that, so that all that was done on Tuesday, as I remember, was to copy those things. I dictated while Leopole typewrote. Proceeding to the twenty-first, I met Leopold at school at eleven. We--

Q That is on the twenty-first day?

A Yes. We went downtown.

Q In whose car?

A In his Willys-Knight, parking the car on 16th Street, just east of Michigan Boulevard, on the south side of the street. Leopole went to the Rent-a-Car people again, carrying his letters supposedly to Morton D. Ballard, and sufficient money.

Q The purpose of the letters was to show he was identified?

A Yes. He told the Rent-a-Car people that he had not received the identification cards, but that he would like to take out the car. They offered no objection, so after a short time he ~~xxx~~ received his car, which was a Willus-Knight five-passenger touring car, blue in color, with no further identification marks. In other words, there were no wind shields. In other words, the car was equipped only with the standard equipment. He passed by me down sixteenth street, no, pardon me. I saw him coming in the car, and as pre-arranged, jumped into his car and went to Kramer's restaurant at

"the corner of 35th and Cottage.

Q And what did you do with Leopold's car?

A We parked both cars at Kramer's, and proceeded to put up the side curtains on the Willys-Knight.

Q That you had rented from the Rent-a-Car people?

A Yes. We ate lunch at Kramer's, and left Kramer's --

Q About what time was it when you left Kramer's ?

A About one.

Q And you left in whose car?

A We left with both cars.

Q And the curtains up on the Willys-Knight that you had gotten from the Rent-a-Car people?

A Yes.

Q And where did you go from there?

A We parked Leopold's car at his garage, which is situated in back of his house, I driving the Rent-a-Car Willys. He joined me immediately after having disposed of his car, and we went out to Jackson Park, where we parked for I should judge between three-quarters of an hour and an hour, because we wanted to wait until the Harvard School let out before

" starting any operations. At about two fifteen we left Jackson Park and drove in the Willys to Ingleside Avenue, where we parked just south of an alley on the east side of the street.

Q Did you have at that time in this car, in which you were riding, and which you parked down by the alley around Ingleside there, the hydrochloric acid and the boots, rope and chisel?

A Yes sir; we had all that.

I think, now that I come to think about it, that when he went to the garage to dispose of his car, I followed him there in the other Willys, and we changed the contents of his car.

'MR. LOEB': Just took the contents from his own Willys Knight to that one'.

(Continuing reading) 'Q Meaning the hydrochloric acid, the boots, rope, gag and chisel?

A Yes, to the Rent-a-Car people's car.

Q Now, you are down there on Ingleside Avenue, waiting for the kids to come out of the Harvard School?

A Yes, I walked over to the Harvard School to reconnoiter.

Q And that is about what time?

A Just about two-thirty.

Q You are over there for the purpose of reconnoitering?

A Yes sir.

Q Go ahead.

A I talked to a fellow by the name of Seass.

Q Who is this man Seass?

A He is the tutor who takes out the children.

Q After classes?

A In the afternoon, to supervise their play. I talked to him for a few moments, and then talked to a young boy by the name of --

Q What did you talk to Seass about?

A I don't remember.

Q When you talked with who else?

A With a little boy by the name of Levinson, John Levinson, whom I knew. I just asked Levinson about his baseball game and so forth and so on.

I left the Harvard School, then, that is, I left -- pardon me, I left the back, the playground where I had been talking to Seass and Levinson,

"and went out in front of the Harvard School, where I met my little brother who attends that school. I talked to him for a short time, and then Leopold came down Ellis avenue on the west side of the street, and whistled for me to come over. We walked down the alley leading to Ingleside, same alley near which the car was parked, and told me that there were some children playing on Ingleside Avenue that he thought may be possible prospects.

Q For kidnaping?

A For kidnaping, yes. We decided, however, not to get them, and walked down Drexel Boulevard to where we saw a group of children playing on a vacant lot at the corner, the southeast corner of Drexel and 49th Street. We watched these boys and noticed that Levinson was amongst them.

Q What is his first name, John Levinger?

A I think so. We went back to the car, got the car and drove to the west side of Drexel, opposite to where the children were playing. We looked to see if we could recognize them from that distance, but it was very difficult, so we walked down to 50th Street, and around 50th Street

"through an alley where we could watch them more closely. Even from there, however, it was impossible to watch them very closely unless we showed ourselves, so we decided to go back to his car, drive over to his car and get a pair of bird glasses.

Q You mean field glasses?

A Well, yes, field glasses, and watch the children through the field glasses. This we did. While he was getting the field glasses, I went to a drug store on the corner of 47th and Ellis where I looked up the address of Mr. Levinson, so that we would be able to tell where John lived. I incidentally bought a couple of packages of Dentyne chewing gum at that drug store.

I picked Leopold up immediately after that with the field glasses, and we went over to the same place on Drexel Boulevard. We watched the children some more through the field glasses, and noted that Levinson with a group of some of the other children went down the alleyway out of sight. We didn't think that he had gone home, so

remained watching. But when, after quite a while, he didn't show up, we came to the conclusion that he might have gone home.

I went to look for him in the alley, but didn't see him, and saw Seass leaving with the rest of his children. We then went to a corner lot at the corner of 48th and Greenwood, the northeast corner, where John Coleman and Walter Baer's sons were playing baseball. We watched them for a little while, then went down to see if Levinson had gone home, passed his house and found that he ~~was~~^{was} not there or playing on the street. We returned down Lake Park Avenue, passed the lot where the Coleman boy was playing, and went into Leopold's house to watch the children play from one of the windows there. We didn't stay there long, but left, and drove down Drexel to go past this lot where Levinson had been playing, turned and went down Hyde Park Boulevard, turned and went north on Ellis Avenue. At this time I was driving.

We proceeded north on Ellis Avenue until we caught a glimpse of Robert Franks coming south

"on the west side of Ellis Avenue. As we passed him, he was just coming across or past 48th Street. We turned down 48th Street and turned the car around, Leopold getting into the back seat. I drove the car, then, south on Ellis Avenue, parallel to where young Franks was, stopped the car, and while remaining in my seat, opened the front door and called to Franks that I would give him a ride home. He said, No, he would just as soon walk, but I told him that I would like to talk with him about a tennis racket, so he got in the car.

We proceeded south on Ellis Avenue, turned east on 50th Street, and just after we turned off of Ellis Avenue, Leopold reached his arm around young Franks, grabbed his mouth and hit him over the head with a chisel. I believe he hit him several times, I do not know the exact number. He began to bleed and was not entirely unconscious. He was moaning. I proceeded further east on 50th, and turned, I believe, at Dorchester. At this point Leopold --

Q What time was it?

" A This was around five o'clock, I don't know the exact time. At this time Leopold grabbed Franks and carried him over back of the front seat and threw him on a rug in the car. He then took one of the rags and gagged him by sticking it down his throat, I believe. We proceeded down Dorchester, and then at Leopold's direction drove into the country. I think we drove either out Jeffery Road or South Shore Drive, I think it was Jeffery Road, I am not acquainted with the district out there, and drove slowly at his directions, and that plus the fact of my excitement accounts for my not being able to tell any of the places where we drove. However, we drove until we were at a deserted road which led off the main road somewhere before the Indiana line. We turned down this road, but it was only for -- it was only a road for a short distance, and ended in a blank. This Leopold knew, but wanted to take it, because it was so deserted.

We turned around, and as we turned around,

"he seeing that Franks was unconscious, climbed into the front seat. Up to that time he had been watching him from the back seat. He had covered him up with the robe that we had brought along, the robe also belonging to Leopold. We then drove further south on the main highway, until we turned at a road which I believe leads to Gary.

We went down this road a ways, and then turned off the road on another deserted road, this deserted road leading north. We followed that for only a short distance, then turned down another deserted road, leading west. We stopped the car, got out, removed young Franks' shoes, hid them in some bushes, and removed his pants and stockings, placing them in the car. We did this in order that we might be saved the trouble of too much undressing him later on. We also left his belt buckle and belt with the shoes, not in the same place, but very near there. We then proceeded to drive around back and forth and back and forth.

Q Waiting for it to get dark?

A Waiting for it to get dark. We stopped at a

"little sandwich shop on the road, and Leopold got out and purchased a couple of red hot sandwiches, and two bottles of root beer. We then kept driving more and more, until it was fairly dusk.

Then Leopold wanted to make a phone call. The phone call had nothing to do with the Franks case. He made this phonecall from a drug store situated on the northeast corner of one of the intersecting streets meeting this main highway, the name of which I do not know. The important thing is that I parked the car on this side street facing west, parallel to the tracks. The driver's seat is on the left of the car. Therefore, I was nearest to the drug store. He got out of the car, went to the drug store and made his phone call. In returning, he came ~~straight~~ straight to the car, so that he hit the door that I was sitting at, rather than the door next to the vacant seat, and he said, 'Slip over and let me drive for a while', which I did. He drove the car.

We again proceeded down the thoroughfare,

*waiting for it to get dark. I remember we turned up one road which he said led to Indianapolis, and then back again, and finally he drove the car to a place where he knew, which was near this culvert. We had both investigated the culvert on a previous journey out there some weeks before.

Q When you had planned it, you mean?

A Yes. We dragged the body out of the car, put the body in the road and carried it over to the culvert. Leopold carried the feet, I carried the head. We deposited the body near the culvert, and undressed the body completely. Our original scheme had been to etherize the body to death.

Q Where did you pour the hydrochloric acid on him?

A Right there. The scheme for etherizing him originated through Leopold, who evidently has some knowledge of such things, and he said that that would be the easiest way of putting him to death, and the least messy. This, however, we found unnecessary, because the boy was quite dead when we took him there. We knew he was dead, by the

fact that rigor mortis had set in, and also by his eyes, and then when at that same time we poured this hydrochloric acid over him, we noticed no tremor, not a single tremor in his body, therefore we were sure was dead.

Leopold put on his hip boots, taking off his coat in order to do this, and took the body and stuck it head first --

CAPTAIN SHOEMACHER: Q Was it dark at that time?

A Yes. Stuck it head first into the culvert. I might say that at this time it was fairly dark, but still not pitch black, so that we were able to work without a flashlight.

MR. SBARBARO: Q How far did you have to carry the body, from the time you get off the machine until you ~~got~~ dropped it into or near the culvert?

A I should say about a city block and a half, I don't know.

Q How did you carry it, in this blanket?

A In the blanket, yes. That is, we had the blanket in sort of, as you might use a stretcher.

Q Well, then, you put the body right down into

the culvert?

A Yes.

Q And you poured your hydrochloric acid on it?

A Before we put it down into the culvert.

Q And then what did you do?

A Then I went to the opposite side of the culvert, where the water runs out and where you can get at the water very easily, where I washed my hands, which had become bloody through carrying the body.

Q The head had bled very freely?

A Yes, the head had bled quite freely, I wouldn't say very freely, but quite freely. There was quite a bit of blood; the blanket or robe was quite saturated with blood.

We then left, taking the robe we used, as also the clothing of young Franks, and we started homeward, and Leopold stopped to call up his folks, and to tell them that he would be slightly detained. This, I should judge, was about nine o'clock."

Q Did you see him write any notes on the typewriter?

A Yes, I saw him write all of them.

Whereupon a short recess was here taken
by Court and Counsel.

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(Whereupon pursuant to a short recess here-
before taken the following proceedings were had)

MR. SBARBARO: Shall I proceed, your Honor?

THE COURT: All right.

MR. SBARBARO: (Reading)

"We then left taking the robe we used as also
the clothing of young Franks and we started
homeward and Leopold stopped to call up his
folks and to tell them he would be slightly
detained. This, I should judge was about nine
o'clock. We then stopped at a drug store some-
where in the neighborhood where I looked up
the address of Jacob Franks and the telephone
number and at the same time Leopold printed the
address upon the envelope. We then proceeded
toward home --

"Q You drove out to Gary, did you, before
you got to the culvert?

"A No, sir, I don't think we ever entered
Gary.

"Q Well, near Gary.

"A Near Gary

"Q But it was near Gary, though, when you

stripped the kid of the shoes? A Yes.

Mr. Loeb: Where you hid the shoes.

"(Continuing reading) "Q And his pants and stockings? A Yes.

"Q In what vicinity were you when Leopold made this first phone call?

"A I think that we were in the town of Hammond. The road we were on led north and south, I am practically positive.

"Mr. Crowe: All the occurrences that happened here, where the bot was hid and so on, happened in Chicago , Cook County, Illinois?

"Q Mr. Loeb: The boy was hid?

"MR. CROWE: Yes.

"Mr. Loeb: Yes.

"Mr. Leopold: Yes.

"(Continuing reading) "A I am not sure whether we posted the letter before or after destroying Franks' clothing. However, what we did do was to go over to my house, where we burned the clothing in the furnace.

"Q Did you burn the blanket, too, in which you had the clothing wrapped?

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"A No, the blanket was placed in a little hiding place near the greenhouse at my house.

"After having burned the clothing, we proceeded to get a pail, soap and brush, and to the best of our ability in the dark to try to wash out the car of the blood stains. The car at this time when we were washing out the blood stains, was parked on 50th Street, near the greenhouse. I think that we probably mailed the letter, the ransom letter to Mr. Franks, before we burned the clothing -- no, I don't know, at that.

"Captain Schoemaker: Q Where was it mailed at?

"A The letter was mailed right opposite from the Hyde Park post office, and I think was mailed, in fact I am quite sure was mailed before the clothing was destroyed.

"Q When would that be, about?

"A That would be about ten o'clock, or a quarter to ten, at the Hyde Park station. Immediately after having destroyed the clothes, washed the car and hid the blanket, we proceeded to a drug store on the northwest corner of either Greenwood or Woodlawn. on 47th Street, where Leopold phoned M's.

Franks, telling her that her son had been kidnapped.

"We then parked the car just north of where Leopold lives, on Greenwood avenue, on the west side of the street, and entered the Leopold home. Leopold took home his aunt and uncle, Mr. and Mrs. Schwab. I sat with Mr. Leopold for a while, until Leopold came back. Then we drank a while, played cards, and then we left, he taking me home in his own car, when he had taken from the garage in order to take his aunt and uncle home.

"Q What time was it, about, then?

"A About ten thirty, I should judge. On the way home, we threw the chisel out of the car on Greenwood avenue, some place between 48th and 50th. He took me home. The next morning he came over to my house around eleven thirty.

"Mr. Sbarbaro. " Was that the day that you disposed of the other articles, like the Underwood?

"A No, this was the next day after the crime. The next day Leopold came over to my house at about eleven thirty, and I dressed and selected

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a black overcoat and hat of my father's, and wear for the afternoon. I left them home and went out with Leopold, dressed as I usually do. We went to the Cooper-Carlton for lunch, where we had lunch with Richard Rubel, the three of us together. Immediately after lunch we went over to my house. I changed my overcoat and cap for the black overcoat and cap or hat of my father's. We went over to Leopold's, and there I changed overcoats again, selecting an overcoat that was less conspicuous, that happened to be lying around the hallway there. We then took the rented car, the Willys-Knight, which had been parked all night at that same place, and drove it around to the garage, where we attempted to wash out the blood stains with soap and water.

"Q Was that Leopold's garage?

"A Yes. Leopold's chauffeur came out, and we told him that we were washing out marks of wine from the car.

"Q You had reference to the red blood stains, then didn't you?

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A Yes. Upon leaving Leopold's, we proceeded downtown in both the Willys-Knights, I driving the Rent A Car Willys-Knight. We stopped at the corner of Oakwood and Vincennes; we both of us got out of the car and went to the corner of Pershing Road and Vincennes, where there is a Keep the City Clean box. We left a note in this Keep the City Clean box, reading to this effect, that Mr. Franks was to come -- was to go immediately to the Bogert de-Rosa or something drug store at the corner of 63rd and Blackstone, and wait there in a specified phone booth for a phone call.

However, the letter did not stick to the Keep the City Clean box, with the stickers we had provided for it; and fearing that it might blow away or somebody might open the box and have it blow away, we decided that the best thing to do was to entirely omit this letter from our calculations; and when we phoned Mr. Franks, instead of telling him to go to the Keep the City Clean box where he would receive a note telling

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him what further to do, to phone his house, telling him to immediately go to the Bogert de Ross drug store on 63rd Street.

After having placed the letter in the Help Keep the City Clean box, we proceeded down town in both cars. We parked Leopold's Willys-Knight on Wabash avenue, near 16th street, and proceeded to the Illinois Central station in the Rent-A-Car Willys-Knight.

We stopped there, and I went out and purchased a ticket to Michigan City, and a birth, wearing glasses, in order to disguise myself, as also the black hat and overcoat. At two-thirty, the three o'clock train which runs on the Michigan Central as far as Boston is made up. Therefore, at two thirty, I went down to the train, got on the train and left a note which we had prepared, in the box provided for telegraph blanks.

This note instructed Mr. Franks to go immediately to the back platform of the train, to watch the east side of the track, and to wait

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until he had entirely passed the first large red brick factory with a water tower on top of it, with the word "Champion" written on the water tower. After he had completely passed this water tower or this factory, he was to count five quickly, and throw the package as far east as he could. At the same time, while I was placing the letter on the train, Leopold was phoning the Yellow Cab Company to send a cab to Franks and also telling Mr. Franks to go to the Bogert De Ross drug store.

"Mr. Loeb: That was at two thirty.

"Mr. Ettelson: Two thirty Central time, three thirty our time.

"Mr. Loeb. Yes, it was then two thirty three standard time.

"Mr. Ettelson: Three thirty Chicago time.

"Continuing reading) We jumped in our car immediately. It was then about two thirty three. We drove quickly to 67th Street and Stony Island, parking the car on the southwest corner of 67th and Stony Island.

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We got out of the car and noticed a news stand that was there where papers were on sale, showing that an unidentified nude boy had been found out around 121st and Railroad avenue at the Pennsylvania tracks. We had intended phoning Mr. Franks from the Walgreen drug store at the southeast corner of 67th and Stony Island. We had intended phoning him to the Bogert de Ross drug store, telling him to get on this train, to purchase a ticket to Michigan City, and to look in Car 507 for the communication which would tell him or which would give him further instructions. We debated then what we should do, in view of the boy's body having been discovered. I was not very anxious to go on with the matter; but Leopold persuaded me to go ahead with the thing.

So he phoned Mr. Franks at the Bogert de Ross drug store, and finding out that Mr. Franks was not there, we went to another drug store further south on Stony Island, where we again phoned the Bogert de Ross drug store, again finding out that Mr. Franks was not there. We then

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realized that the body had been identified as that of Robert Franks, and that any further attempt to get the money would only result in failure.

We therefore immediately went down town to the Rent A Car place, and Leopold took the car. I stayed outside, in the Willys-Knight, -- in the red Willyx-Knight which had been parked there.

I then returned home, got home about five, and was told of the Franks murder by our chauffeur, who showed me one of the newspapers. Nothing else transpired of importance until Saturday night.

Late Saturday night, around two o'clock, I met Leopold at a restaurant next to the garage, the Fashion garage at the corner of 51st and Cottage. He had this car, and we took his car in which he had placed his typewriter, the Underwood portable typewriter, upon which the letters had been written, and we took the typewriter out of the back trunk, brought it into the front seat, and I took a pair of pliers and pried off the keys, just the very tips of the keys where the imprint

We then took these keys in a little bundle, and threw them off the bridge in Jackson Park, situated near the golden statute of Liberty. Then we took the typewriter intact with case, and threw it off the bridge leading to the outer harbor. In other words, the bridge, the big stone bridge with the pyramid effect at all four corners of the bridge. It is the bridge leading to the outer harbor. The typewriter was thrown on the east side of the bridge.

The robe was then taken from its hiding place. We went over to Leopold's garage and got some gasoline, took the robe out on South Shore Drive, on a little side street connecting with the South Shore Drive, and saturated the robe with gasoline and set fire to it.

That is all I have to tell about the murder of Robert Franks.

"Q And this statement that you have just made has been made of your own free will?

"A Yes. I just want to say that I offer no excuse, but that I am fully convinced that neither

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the idea nor the act would have occurred to me, had it not been for the suggestion and stimulus of Leopold. Furthermore, I do not believe that I would have been capable of having killed Franks.

This statement is made of my own volition.

"Captain Schoemaker: Is that true?

"Mr. Loeb: Yes.

"Captain Schoemaker: Everything that he read there is true, is it?

"Mr. Loeb: Yes, sir.

"Captain Schoemaker: That is in your statement?

"Mr. Loeb: Yes, sir.

"Mr. Leopold: I have some corrections.

In the first place, the date as given by Mr. Loeb is about a month or two at the most before the crime took place. As I remember it quite distinctly, we started planning this thing as early as November, 1933.

In the second place, the suggestion was his, not mine.

In the third place, the Rest A Car is at

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14th and not 16th Street. The little restaurant to which he refers is also at 13th, not 1538 Wabash. The hardware store to which he refers is not at 47th, but between 55th and 56th, on Cottage Grove Avenue.

I did not bind the chisel with tape; he did. The hip boots were not my brother's, but mine. The place that he mentioned getting the car was at 14th and not 16th Street.

At the time the Franks boy entered our car, I was driving, not Mr. Loeb and Mr. Loeb was in the back seat. It was Mr. Loeb struck him with the chisel, and not I.

The phone call to my father's I think was made at nine forty five.

"Mr. Savage: Where did you phone from?"

"Mr. Leopold: At 104th and Ewing Avenue. Mr. Loeb I think went home at one o'clock, instead of at ten thirty as he seems to think.

"Mr. Loeb: No, I never said that; I said I went to your house at ten thirty.

"Mr. Leopold: Then I misunderstood. And as far as

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that suggestion is concerned, again, I am sure it was Mr. Loeb that made it, and it was his plan, and it was he who did the act.

"Mr. Crowe: Outside of that, the statement is correct?

"Mr. Leopold: Correct.

MR. CROWE: Now, if your Honor please, I have one witness that I desire to call before the State closes their case, and the witness that I desire to call is an employe of our office who worked all night, and I understand went home about noon to get a little sleep.

THE COURT: How long will he take?

MR. CROWE: He won't take over five minutes at the outside, probably only two or three, so if it might go until ten o'clock tomorrow, I will close the State's case at five minutes after ten.

THE COURT: Will you be prepared to proceed then?

MR. DARROW: We will be prepared, your Honor.

THE COURT: Well, with that understanding we will suspend. The State will close its case five minutes after opening or ten minutes, the State will close

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Wednesday, July 30th, 1924,
10:00 o'clock A.M.

Court convened at 10:00 o'clock A.M. Wednesday,
July 30th, 1924, pursuant to adjournment
heretofore taken.

Present: Same as before.

THE COURT: You may proceed, gentlemen.

MR. CROWE: Mr. Sheeder, will you take the stand please.

F R A N K A. S H E E D E R,

a witness called on behalf of the prosecution, being
first duly sworn, testified as follows:

DIRECT EXAMINATION
BY MR. CROWE.

Q What is your name, please?

A Frank A. Sheeder.

Q Where do you live, Mr. Sheeder?

A 7039 Woodlawn

Avenue.

Q You are a shorthand reporter?

A Yes sir.

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Q A court reporter?

A Yes sir.

Q And have been for how many years?

A About twenty-three.

Q Do you take testimony correctly in shorthand?

A Yes sir.

Q And correctly transcribe it on the typewriter?

A Yes sir.

Q Did you take the statement that was read yesterday by Mr. Allen of Leopold's?

A Yes sir, I did.

Q And you know the statement that I refer to?

A Yes sir.

Q You have it there in front of you?

A Yes sir.

Q And you correctly transcribed that, did you?

A I did.

Q And the transcript that was read by Mr. Allen is a correct transcript?

A It is.

MR. CROWE: That is all.

MR. BACHRACH: No cross examination.

THE COURT: That is all, you may step aside.

(Witness excused and no cross examination)

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MR. CROWE: The State of Illinois rests.

THE COURT: The State rests.

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MR. BACHRACH: I didn't quite understand what your Honor had in mind when the motion was made to continue the matter of the kidnapping case. Isn't this the proper time to take that matter up, so that when we introduce our proof, we can introduce it in opposition to both cases?

THE COURT: I am afraid if you mix up the two cases it might not be proper. In other words, if the State --

MR. CROWE: If they withdraw their plea of guilty in the kidnapping case, I will nolle it.

MR. BACHRACH: No, we won't do that. We have pleaded guilty in the kidnapping case.

MR. CROWE: I insist that we finish the murder case before we go into anything else, unless you withdraw your plea in the kidnapping case, and I will nolle the case and thus dispose of it.

MR. DARROW: Well, we will have to meet that then when we get to it. The plea is here.

THE COURT: You see, the State is making a record in the case of the People vs. Leopold and Loeb in a certain number?

MR. BACHRACH Yes.

THE COURT: The one charging murder.

MR. BACHRACH: Yes.

THE COURT: Now, if there is testimony taken in the other case at this time it might cause some confusion. The State's Attorney, I understood to say, at the opening of this case, that after this case was disposed of he could dispose of the other case in less than half an hour.

MR. CROWE: I can dispose of it in a very few minutes now if they withdraw their plea.

MR. BACHRACH: No, we don't intend to withdraw the plea of guilty. We stick by the plea of guilty.

THE COURT: Well, after this case is disposed of, as the State's Attorney says, he can dispose of the other case very shortly.

MR. BACHRACH: Your Honor assured us that judgment would not be given until ^{the} evidence was introduced in both cases, your Honor assured us of that in the beginning.

THE COURT: Well, because the State's Attorney said it wouldn't take more than a half hour to hear

the evidence in the second case, and while this case

is on trial it would cause confusion to go into testimony in the other case at this time. After both sides have rested in this case I will take the other case up.

MR. BACHRACH: Before decision?

THE COURT: Yes, and Mr. Crowe says that he can dispose of it in half an hour. Even if it takes a half day, it doesn't make any difference.

MR. BACHRACH: Very well.

WHEREUPON THE DEFENDANTS, TO MAINTAIN
THE ISSUES ON THEIR PART, INTRODUCED
THE FOLLOWING EVIDENCE, to-wit:

W I L L I A M A . W H I T E ,
a witness called on behalf of the Defendants, was first
duly sworn, and testified as follows:

DIRECT EXAMINATION

BY MR. WALTER BACHRACH.

Q Will you please state your name?

A Dr. William A. White.

Q And your place of residence?

A Washington, D. C.

Q What is your profession?

A Physician.

Q What is your age, Doctor?

A Fifty-four.

Q Will you please state your professional connections, both present and past.

MR. CROWE: Just a moment. I object to that, if your Honor please.

THE COURT: Why?

MR. CROWE: It is incompetent, irrelevant and imma-

terial.

THE COURT: Why?

MR. CROWE: The only purpose of it would be to lay a foundation for him to testify as an expert on the question of the sanity or insanity of the defendants. On a plea of guilty your Honor has no right to go into that question. As soon as it appears in the trial, it is your Honor's duty to call a jury.

MR. WALTER BACHRACH: We do not propose, if your Honor please --

THE COURT: Overruled, you may proceed.

MR. CROWE: I want to be heard on that, your Honor, because if there is any testimony introduced in this ~~trial~~ trial as to the mental condition of these boys, any act or any order that your Honor enters in the case is a nullity. In other words, if your Honor at the conclusion of this trial, after having gone into the sanity proposition, should sentence these boys to hang, your judgment would not be worth the paper that it was written on, the Supreme Court would set it aside. If you entered a judgment here that is satisfactory to the defendants, they wouldn't

have to appeal, and the State has no right to appeal. In other words, the State cannot appeal from any order your Honor enters. The defendants have a right to appeal from all orders. I would have to confess error in the Supreme Court if your Honor hung these men after hearing evidence of insanity. If you gave them life, or if you gave them a term of years that was satisfactory to the defendants and their lawyers, I couldn't appeal, and they wouldn't appeal. I insist that the question of sanity or insanity is a matter, under the law, for a jury. I would like to read your Honor the law on this matter, reading from Smith and Hurds Illinois Revised Statutes of 1923, Chapter 38, Page 720, Section 588.

Whereupon Mr. Crowe here read from
the above authority in the words and
figures as follows:

MR. CROWE: Can language be more explicit, more mandatory and more direct than the language that I have just read? You see, the Supreme Court in the Geary case passed on that. Geary before his Honor Judge McDonnell, by his attorneys, agreed that the Court could inquire into his sanity --

THE COURT: After conviction, wasn't it?

MR. CROWE: Regardless of when, and the Court appointed a commission, and the Supreme Court said that is a matter for a jury to inquire into and the Court has no power to do it.

Insanity, if your Honor please, is a defense, just the same as an alibi. Would your Honor tolerate or permit these defendants to enter a plea of guilty in this case, and then put witnesses on the stand to show that when the crime was committed they were in California?

Have we got to a point in the law here where we can enter a plea of guilty before the court in order to avoid a jury, and then try that plea as a plea of not guilty and put in a defense?

What is the purpose of entering a plea of guilty and then maintaining that you have a defense and

you have a right to hear it, when the law says that that defense has got to be decided by twelve men?

What is the defense trying to do here? Are they ~~xxx~~ attempting to avoid a trial upon a plea of not guilty with the defendants before twelve men that would hang them, and trying to produce a situation where they can get a trial before one man that they think won't hang them?

I insist if your Honor please, if we proceed to hear evidence tending to show that these men are insane, anything you do from now on is of no effect in law. From the moment you hear evidence of insanity this becomes a mock trial, and any judgment your Honor enters the State's Attorney will have to confess error in the Supreme Court. I insist that the language --

THE COURT: Have you got any authorities sustaining your position?

MR. CROWE: I have got the Geary case, your Honor.

THE COURT: The Geary case isn't in point. Any other cases?

MR. CROWE: Yes, your Honor, we have plenty of cases.

MR. MARSHALL: The authorities have held the proposition, if your Honorplease --

THE COURT: Will you answer this question --

MR. MARSHALL: -- that insanity is a defense.

THE COURT: Oh, there is no doubt about it. Now listen to me, please' Suppose these two young men were here without counsel, the court appointed counsel, and the defendant, whoever he was, pled guilty to murder; the Court was of the opinion, from his general appearance, that there was something wrong with him, that he was not competent to plead, how would the Court determine whether or not he was competent to plead guilty or not guilty?

MR. CROWE: That is for a jury.

THE COURT: Oh no. The Court could, and would and did, appoint alienists to examine him, and when they told me that he was not insane, that he was responsible for his acts, I permitted the plea of guilty to stand, and sentenced him to life imprisonment in the penitentiary, only recently.

Now then, how do I know whether those

boys are now competent to plead guilty or not guilty?

Take the case that you cite to me, the Geary case. The Court said there that their counsel couldn't waive any of the rights of the defendant, Gene Geary, didn't they?

MR. CROWE: Yes, your Honor.

THE COURT: These counsel here cannot waive any of the rights of these boys, and I have a right --

MR. CROWE: They are entitled to a trial by jury.

THE COURT: I have a right to know whether those boys are competent to plead guilty or not guilty. When the defense arrives at such a point that this court, if this court was satisfied that these boys were insane, the court could, and very likely would, direct the plea of guilty to be withdrawn and a plea of not guilty entered and let the defendants plead their insanity as a defense. There are different forms of insanity.

MR. MARSHALL: In medicine.

THE COURT: In medicine, not in law. Is there any mitigation in a murder case at all?

MR. MARSHALL: As to insanity, no.

THE COURT: We don't talk about insanity.

MR. MARSHALL: There is mitigation of course, but insanity is not of a mitigating nature. It is a condition that exists, or it does not exist.

MR. CROWE: There are no degrees, if your Honor please in responsibility.

THE COURT: Oh yes there are.

MR. CROWE: No, your Honor. We haven't got a statute which says that a man twenty percent normal who commits a certain act will get one punishment, that a man who is thirty percent normal who commits the same act will get another punishment, that another man who is seventy percent normal who commits the same act will be punished more severely, or that a man one hundred percent normal who commits the same act will get a more severe penalty. There is not any such statute here. You are either responsible for your acts under the law, or you are not responsible, and the responsibility is complete. Insanity is a defense just the same as self-defense, just the same as an alibi.

Would your Honor listen to evidence of an alibi in this case?

THE COURT: That is not the question.

MR. CROWE: If it is a defense, can you listen to any defense on a plea of guilty?

THE COURT: The defense hasn't said they are going to put on alienists to show that these men are insane, and I don't think that they are going to attempt to show that they are insane.

MR. CROWE: Well then what is the evidence for, what are they going to show?

THE COURT: you will have to listen to it. They have said that they are going to put evidence on in mitigation of the crime. Our statute fixes three or four different penalties, one is death, the other is life imprisonment, and the third is a penitentiary sentence for a number of years not less than fourteen. Now there certainly must be degrees of murder.

MR. CROWE: Yes, your Honor.

THE COURT: That is, degrees of punishment, and the punishment that the Court metes out must be guided by the evidence introduced.

MR. CROWE: If your Honor please, when a defendant pleads guilty to murder, the only place your

Honor can find evidence of mitigation is in the things surrounding the commission of the crime. You do not take the microscope and look into his head to see what state of mind he was in, because if he is insane he is not responsible, and if he is sane he is responsible, then you look, not to his mental condition, but you look to the facts surrounding the case, did he kill the man because the man had debauched his wife? If that is so then there is mitigation here. Did he kill the man because the man had spread slanderous stories about him? Then there is mitigation. Did he kill the man in the heat of passion during a drunken fight? That is mitigation.

But here is a cold-blooded murder, without a defense in fact, and they attempt, on a plea of guilty, to introduce an insanity defense before your Honor, and the statute says that is a matter that must be tried by a jury.

THE COURT: Has anybody said that they are going to introduce an insanity defense?

MR. CROWE: Well, what is the purpose of putting an expert on the stand?

THE COURT: They have a right to, in my opinion.

MR. CROWE: Aren't they going into his mental condition?

THE COURT: Well, suppose they do?

MR. WALTER BACHFACH: We have a right to do that, under the authorities.

THE COURT: The state of mind of one who is in possession of his ordinary faculties, without any mental disease, I have a right to know that, and that doesn't excuse him from the offense he has committed; but they have a right to show me that was the condition of his mind at that time, and insanity, at law, covers nothing more than the relation of the person to the particular act which is the subject of judicial investigation -- the particular act which is the subject of judicial investigation. Now this is the act which is subject to judicial investigation, and I think I have a right to go into it to know the state of one who is in possession of his ordinary faculties and is not affected by any mental disease. Now, if he is affected by mental disease, then he is insane. If that be true, then this Court might, and probably would, insist that the

defendants withdraw their plea of guilty and enter a plea of not guilty, so that a jury could pass on the question of his sanity or not. This Court is not going into the question of sanity, it hasn't any right to. I agree with you absolutely, this court hasn't any right to. But if during the progress of this hearing the court is of the opinion that these men are insane, then it is the duty of the court to have them withdraw their plea of guilty and enter a plea of not guilty, and these counsel here have no right to waive the constitutional rights of those men.

If this court at any time is of the opinion they are insane, then he has got his duty to perform; but they have a right, in my opinion, to show the condition of mind of those boys, if they are in possession of their ordinary faculties, and if they are not affected by mental disease, the court has a right to know it.

MR. WALTER BACHRACH: May I make this statement, if the court please. We are not interested in this inquiry, in the legal question of insanity. That is a question which relates solely to the knowledge

of the accused as to right and wrong and the ability to choose between the two. But what we propose to show here, is a medical condition, a pathological condition, which has absolutely no relation to the legal question presented on an insanity issue, and I have the authorities here.

THE COURT: We are not going to try any insanity issue here, gentlemen.

MR. MARSHALL: If your Honor please, it makes no difference by what name they call it, if it is a matter that has to do with the condition of the mind, it approaches that question of sanity or insanity so closely that you cannot draw the line, and our Supreme Court has said that questions of this nature are particularly within the province of the jury.

Now then your Honor has said that these counsel for these men may not waive their constitutional rights. And that is the law, they cannot. And if they go on with this inquiry and show certain things of this type, and the State acquiesces and permits a record here showing a condition of the mind, not as your Honor has indicated, satisfactory to you that they are insane, but even the slightest

evidence of the existence of insanity, the tendency of evidence to show insanity, if you please, the rule is so ancient, it was held in Blackstone's time, when he said that questions of non-compas mentis were to be tried by the jury, and so here, not having a right anywhere to waive constitutional rights, there is only one body, in the law, to try the question, and that is a jury, and the mere offer of a witness to show questions of sanity or insanity as to this plea, after they have pleaded guilty under the presumption of sanity that goes with them throughout the trial down to the point where insanity is suggested, the mere offer of such a witness suggests to your Honor's mind a condition of things that may violate their constitutional rights, that their counsel may not waive, that the State cannot reach, and that the Court may not disregard, and so that condition existing, if your Honor please it distinctly, as I conceive it, becomes the duty of the Court to act upon that suggestion and call a jury.

Now, the authorities are full to the proposition that insanity is a defense.

THE COURT: Let me see some of them. Where is

your authority, any Illinois authority?

MR. CROWE: Yes, a mass of them.

THE COURT: Get the latest, I don't care about the Geary case.

MR. MARSHALL: Your Honor wants to know is insanity a defense?

MR. B. C. BACHRACH: No, he doesnot. You keep on repeating that. You know what our position is here.

MR. CROWE: If your Honor please --

MR. DARROW: Just a moment.

MR. CROWE: Just let me ask a question.

MR. DARROW: You are talking all the time.

MR. CROWE: Just a moment, Mr. Darrow. I insist when the Court indicates that he is with you and against the State, that the State ought to be permitted to argue in ~~an~~ an attempt to change the Court's mind. Let me ask the Court a question.

If it is conceded that insanity is a defense, have they got a right to introduce any evidence of a defense in this case, with a plea of guilty? Any evidence of a defense?

MR. B. C. BACHRACH: No.

MR. CROWE: Then have you any right to introduce

any evidence as to the mental condition of these men?

MR. B. C. BACHRACH: Certainly.

MR. CROWE: Tending to show that they are not responsible, or only to be held to that degree of responsibility that other people would be held to?

MR. B. C. BACHRACH: Certainly.

MR. CROWE: Well that is insanity, called by another name.

MR. B. C. BACHRACH: Well, you can call it green cheese, if you like --

THE COURT: Wait a minute, don't get excited. You have got your authorities here on both sides?

MR. CROWE: Yes.

MR. WALTER BACHRACH: Yes, your Honor.

THE COURT: Give me the latest cases in Illinois. Have you the 296, have you that case?

MR. MARSHALL: Yes, if your Honor please.

MR. CROWE: While Mr. Marshall is getting the authorities let me put another proposition to your Honor.

THE COURT: Yes.

MR. CROWE: After the defense puts on their testimony which shows the mental condition of these boys ,

of these murderers, what rebuttal could the State put on, except to put on witnesses to testify that they were sane? Haven't you got a question of insanity there?

THE COURT: You folks have gone off on that tangent that they are going to put up here a defense that the defendants are insane. I don't know that they have any such intention. Only the State has said it.

MR. CROWE: Is this doctor going to testify to anything --

THE COURT: Supposing they put on a policeman from the corner and he got on the stand and said "why, these two fellows are insane," do you think the Court would give it any weight?

MR. CROWE: I insist that your Honor should give it weight.

THE COURT: What a policeman on the corner should say about them?

MR. CROWE: The policeman on the corner may know more about that boy's mental condition than an alienist. Your Honor and I can tell if we have been in the company of a person for many

years, we can tell whether he is sane or insane, we don't need an expert to tell us that.

THE COURT: Well I am talking now about bringing a policeman from the corner who don't know anything about it. I am not saying anything about an alienist or someone who has associated with them. Have you the 292? Get me the 292. Have you got it there? Have you got the Vitti case? Go ahead with your authority, anything sustaining your position. Now not, mind you, that they are going to put in a defense of insanity. They are not going to be permitted to put in a defense of insanity.

MR. MARSHALL: How can it be distinguished, if insanity is a defense, and insanity is a defense, and they come in here on a plea of guilty and proceed to show, after a plea of guilty, that these men are insane?

THE COURT: Why, they haven't done it, my dear sir, they haven't attempted to.

MR. MARSHALL: That is the tendency of the evidence,

THE COURT: OK I don't know what the tendency is, we will have to hear it. I can't tell what is in

this man's mind.

MR. DARROW: You will be able to if we are given a chance.

THE COURT: You have a right to object to any particular question, that is all.

MR. MARSHALL: If the tendency of the evidence in a case of this kind, because of the rule of law as to sanity --

THE COURT: Go ahead with your authorities. Now show me by some expression of the Supreme Court, not on the question of insanity, but that the Court has no right to listen to a witness who will testify to some condition.

MR. CROWE: And that doesn't go to the question of sanity or insanity?

THE COURT: Let us see what the Supreme Court says. We will never get together if you and I continue arguing about it, but let me see what the Supreme Court has said on the subject, listen to the language of the Supreme Court, its latest expression on this question, and we will try and be guided by what the Supreme Court says.

MR. MARSHALL: Blackstone lays down --

THE COURT: No, I am talking about the Supreme Court of Illinois.

MR. MARSHALL: Allright. The Supreme Court of Illinois is founded, if your Honor please, upon Blackstone, because of the nature --

THE COURT: Have you any authority in Illinois on this subject?

MR. MARSHALL: This question of mitigation is one that is not found on every page of the books.

THE COURT: I asked you if you had any Illinois decisions and you said you had anumber of them?

MR. MARSHALL: We have our authorities to our view of this situation. I wanted to quote Blackstone, I wanted to get the rule in your Honor's mind. "But if there be any doubt about whether the party ^{be} ~~is~~ compos or not, this shall be tried by a jury". Blackstone, Book 4, Chapter 3." If there be any doubt about whether the party be compos or not, this shall be tried by a jury."

THE COURT: Any doubt by whom?

MR. MARSHALL: By the Court.

THE COURT: How do you know that there is any doubt

in the Court's mind?

MR. MARSHALL: No, I said by the Court. I withdraw that. But if there be any doubt -- not by the court, by anybody. Generally speaking, any doubt, Blackstone says, whether the party be compos or not, this shall be tried by a jury.

Now, that is the law in Illinois now. If there is any room for the question of sanity or insanity in this case now, then there is a doubt, because the whole question of insanity was disposed of by the plea.

THE COURT: You are going back again to the insanity question.

MR. MARSHALL : You cannot escape it.

THE COURT: Well, we will try to. Let us see what the Supreme Court has said, the Supreme Court of Illinois?

MR. MARSHALL: People vs. Geary, 297 Illinois .

THE COURT: I know the Geary case. That was one where after conviction Judge McDonald appointed a commission, where counsel on both sides agreed that could be done, and the Supreme Court said that counsel

had no right to waive the constitutional rights of the defendant, but they must be tried by a jury; and the jury found that Geary was insane at that time. It had already found him sane when he committed the deed, and he is now in Chester, waiting to be restored to reason; and if at any time from now on he is restored to reason, there is nothing left but for some Judge of the Criminal Court to fix a date for his execution. All his appeals have been executed; every remedy has been exhausted. The Supreme Court has passed on the matter, and he is held there now because you cannot hang a person even after judgment, who is insane. The finding in the Geary case was that he was sane when he committed the deed, that he became insane between that time and the date of his execution, and therefore he has gone to Chester, to remain until he is restored to reason, and then some court must fix the date for his execution. But that is not on all fours with this case. That was a trial for insanity, in which counsel waived the constitutional rights of the defendant to a trial by jury, and the

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Supreme Court said, "you must go back and try the insanity case with a jury". There was no question about that. If there is a question of insanity to try here, it is going to be tried by a jury.

MR. MARSHALL: Now, if there is a tendency to show insanity --

THE COURT: Not a tendency.

MR. MARSHALL: If there is evidence indicating insanity, --

THE COURT: Have you any authority from the Supreme Court sustaining your position?

MR. MARSHALL: Blackstone. And I have authority that insanity cannot be heard in mitigation.

MR. DARROW: And we have authority that it ~~san~~, -- not insanity, but mental condition.

THE COURT: Not insanity. The Court is not going to hear a question of insanity here.

MR. MARSHALL: Let us distinguish, and draw the lines where they properly belong. Insanity is not a legal term at all; it is a medical term.

THE COURT: Relating to the condition of a man's mind.

MR. MARSHALL: Precisely. It might more properly be

termed responsibility or irresponsibility in the law. May we in mitigation hear all of the different branches of medical insanity, when insanity is within the law a defense? There are onehundred and fifty kinds of medical insanity.

THE COURT: What is the definition of insanity?

MR. MARSHALL: Unsoundness of mind, and that is a defense.

MR. BACHRACH: Oh, no.

MR. DARROW: The court have passed on that so many times you must know that. They may be found guilty even if the mind is unsound. But the statute in this State provides that the Court may listen to anything, either in mitigation of the penalty or in aggravation. Of course, it does not follow that a man has to be hanged, simply because he has committed murder. The legislature has given a wide latitude to either court or jury. Now, the condition of mind may mitigate. If it is legal insanity, of course it is a defense, and we could not plead it, but anything showing weakness of mind or disease that does not approach legal insanity, the Court may, if he wishes,

if he thinks it is right, just and humane, consider as one thing that mitigates the penalty in the case.

MR. MARSHALL: Your Honor asked me what insanity is. The Supreme Court in Hoch vs. the People said:

"It is now generally conceded that
insanity is a disease of the brain."

Under that definition of insanity, any evidence of partial intellectual mania, or moral mania, whether general or partial, is insanity.

MR. DARROW: There is no defense on the ground of insanity unless it shall be such insanity as will not permit them to distinguish between right and wrong, or to be able to resist the wrong and do the right.

MR. B. C. BACHRACH: And every case holds that.

MR. DARROW: The statute says that the Court may hear evidence on the question of mitigation or aggravation. Is not the condition of one's mind a question that may properly be considered by the Court in mitigation, where it does not rise to a defense?

MR. MARSHALL: That is answered in the language of the rule laid down in Corpus Juris:

"The law does not recognize the division
of insanity into the numerous branches

"so convenient for purposes of description."

I would cite your Honor 109 Illinois, 169.

THE COURT: This is a case where the jury ~~xxxxx~~ had already passed upon it, and in this case they want the verdict set aside, and the Court says, using your language, no. "Questions of this kind are peculiarly for a jury, and the jury having determined it, this Court is not going to set it aside."

The point I am trying to get at is this: as to the state of mind of one who is under judicial inquiry while in possession of his ordinary faculties and unaffected by mental disease. When affected by mental disease, that is insanity. I am not going into that, I am not going to permit it. But as to a case where they are unaffected by mental disease, one who is in the state of mind of one who is in possession of his ordinary faculties, unaffected by mental disease, but who gives way to passions, what they call emotional or impulsive insanity, the term that doctors use for their own convenience to distinguish this, that and the other for treatment:

have I a right to listen to evidence along that line or have I not?

MR. MARSHALL: Absolutely not.

THE COURT: Then you must show me some authorities. The Geary case is not in point and neither is the 109 Illinois. Let us see what the 292 Illinois says, page 32.

"In a case of partial insanity, the afflicted person, to be responsible for a crime, must not only be capable of distinguishing between right and wrong but he must also be mentally capable of choosing either to do or not to do the act constituting the crime, and of governing his conduct according with such choice."

MR. MARSHALL: I am trying to make it plain to your Honor that partial insanity is one of the branches of a diseased mind, a diseased mind being necessary to unsoundness of mind in law. I have authority after authority as to the operation of mental insanity.

THE COURT: There is no use citing them because the

Court agrees with you. If there is any mental disease, it is insanity.

MR. MARSHALL: And if there is no mental disease it is not in this case.

THE COURT: Well, we cannot say that.

MR. DARROW: Do you mean to say the Court will not consider mental condition on a question of mitigation, where that mental condition does not rise to a defense?

MR. MARSHALL: I mean to say that if we have a mental condition of that kind, it was your duty to take full advantage of it before a jury, because it is only necessary to raise a reasonable doubt in the minds of the jury, to acquit.

MR. DARROW: We might not have anybody who would testify or who believed that they did not know the difference between right and wrong and were not to some extent capable of choosing. But if they have a mental difficulty, if they have a low degree of responsibility, that is one of the things contemplated by the statutes. I am quite certain that they can never find a case otherwise, and we have one directly in point.

MR. WALTER BACHRACH: Tracey vs. State, 64 Northwestern, Page 1069. In that case the Supreme Court of Nebraska has occasion to discuss the character of inquiry to be made by the trial judge upon arraignment for sentence. Here we contend we have a right to show the medical mental condition of these defendants, the medical, psycho-pathological condition which falls short of a legal defense which we could maintain on an issue of insanity, as bearing upon the question of the amount of punishment which the Court should impose.

MR. MARSHALL: I think we are completely invading the field of law as to mental responsibility. I want to cite the case of Parsons vs. State, 8th Alabama, 577. But before that, in the State of Colorado, their statute upon aggravation and mitigation of sentence is almost a parallel of ours word for word.

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But you will notice the analysis of those things that are mitigating doesn't include a single one that amounts to a defense. Now, what do they say? The character of the defendant, his habits, his social standing, his intelligence, his motives for the commission of the offense, but if they have a defense it is not mitigation. Mitigating circumstances are such as do not constitute a justification or an excuse of the defense in question just as morphine does not include anything that goes to the structure of the crime, within the elements that make up the charge in the indictment.

And so in mitigation, we are out here beyond the limits of the legal side of the case. We are in that field where mercy applies. Why should they not hang? What is there in fact that appeals to the mercy of the court outside of the legal lines of the case; itself, because the legal lines of the case, the elements of the case, all came to a conclusion in the law, with a plea of guilty.

There is in Colorado a statute and constitution parallel with ours.

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MR. DARROW: What has that got to do with our case?

MR. MARSHALL: Everything.

MR. DARROW: Of course we claim, our claim here is we could not use this as a defense.

MR. MARSHALL: Insanity can be pleaded as a defense to a charge of crime, but not in mitigation of the degree of guilt. Commonwealth v. Hollinger, 190 Pa. 155. I want to read that to your Honor.

THE COURT: That is insanity again. You are coming back to insanity. The Court is with you on that proposition. The Court is with you on that proposition.

MR. MARSHALL: Now, because the doctor calls depravity one type of legal insanity --

THE COURT: How do you know or how do I know what this doctor on the stand is going to say?

MR. MARSHALL: I follow Judge Crowe's objection. I am assuming he does not know a thing about the crime.

THE COURT: Assuming what this man is going to testify to, the Court is of the opinion unless you show me authorities to the contrary, just as I say --

MR. MARSHALL: I regard Smith against the People the case I just read --

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THE COURT: That is Colorado?

MR. MARSHALL: Yes.

THE COURT: The Colorado case, if at all, it helps the other side, in my opinion, because it says there you can put evidence in in mitigation.

MR. MARSHALL: Of course, you can hear evidence in mitigation.

THE COURT: I am not going to hear evidence on insanity. I have told you that.

MR. MARSHALL: Well, now, in mitigation we will assume that the evidence shows --

THE COURT: I don't care about insanity, that is not the question.

MR. MARSHALL: Does your Honor want to hear the authorities and the propositions of what is moral insanity and as to its place in the law.

THE COURT: If it is a mental disease I am not going to hear it.

MR. MARSHALL: I don't know at any time what you have been talking about, Mr. Darrow, because you have confused a mental condition that is not insanity, as you say, with an insanity, with a plea that brings you in

in here as sane men.

R. DARROW: Insanity would not be evidence in this case unless it was such insanity as prevented them from knowing the difference between right and wrong or prevented them from exercising -- Now, supposing the mental condition does not arise to that but seriously interferes with their free will and their understanding, don't you think the Court has a right to listen to that in mitigation?

R. B. BACHRACH: Isn't it his duty to hear it? and could he refuse to hear it.

MR. CROWE: Let me answer that. The Court has not the power to determine, the attorneys ~~xxx~~ for the defendants have not the power to determine whether the mental disease or the mental irregularities of the defendants arise to a point where it would constitute a defense. The law says that question must be decided by a jury. You can't, Mr. Darrow, or Mr. Bachrach, say that we have evidence from a doctor which in our judgment doesn't amount to a legal defense, but the evidence is that their mind is diseased in some manner, that they have not complete control over their

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actions, and we want your Honor to hear it, and your Honor has no right to say, either in the beginning or at the end, I am of the opinion that that evidence doesn't constitute legal insanity, and that is what you are attempting to do here, you are attempting to say whether or not after having heard this evidence the boys are insane or sane. Once the question of their mental condition is brought in you have got to call a Jury.

MR. FARROW: There is not ^{a point of} law on earth for that.

THE COURT: Will you cite one authority?

MR. CROWE: I have cited, your Honor, and I believe they are in point.

THE COURT: The Geary case?

MR. CROWE: The Geary case and the statute itself, your Honor.

THE COURT: If you are relying on the Geary case you might as well end the argument, the Court will overrule you. Have you got any other case?

MR. CROWE: I suggest Mr. Marshall go ahead.

THE COURT: The Colorado case is not in point in my opinion, and the other case certainly is not.

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Now, you said something about the Smith case.

MR. T. PACURACH: That was the Smith case, the Colorado case.

THE COURT: Oh, in that case they say on a plea of guilty the court has a right to hear evidence in mitigation. It don't say anything about the mental condition, it says all evidence --

MR. MARSHALL: If it amounts to or suggests insanity --

THE COURT: I don't care what they suggest.

MR. CROWE: Your Honor has no right to decide it.

MR. MARSHALL: Counsel for the defense can not pass on it, you can not pass on it, we can not pass on it, there is but one body that can, and that is a jury, because of the nature of that defense, it being insanity.

THE COURT: Now, you are going back to insanity again. The Court has told you he is not going to hear and pass on the question of insanity at all. If the Court after hearing the evidence comes to the conclusion that these men are insane in his opinion and that they had no right to plead guilty, it is the duty of the Court, regardless of their plea of insanity, to insist on their

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MR. CROWE: Your Honor misses the real point. You have not the power to determine whether the evidence that has been introduced constitutes insanity or not. Just as soon as evidence of a mental condition is brought in the case, that is a question, as the Courts have stated peculiarly for a Jury.

THE COURT: They never said it.

MR. CROWE: We just read it to you.

THE COURT: The presumption is those men are sane. They have pleaded guilty. The State has put in its evidence; the Court must determine the punishment; the defense here say they have a right to bring in certain evidence in mitigation of the offense. After hearing what the defense has got to say then the Court, in his judgment, may fix the penalty of these boys at death, the Court may fix their punishment at imprisonment for life, for a term of years not less than fourteen. That is my duty, to fix the punishment after I have heard all of the evidence with reference to this case.

If something came up which led the Court to believe that those boys were not competent to plead

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guilty -- and in the Gearr case the Supreme Court says that the counsel cannot waive their constitutional rights, -- I could insist that they withdraw their plea of guilty and enter a plea of not guilty, and put on this defense of insanity or put on the insanity as a defense. But the Court is of the opinion that I have a right to listen to any evidence in mitigation of this crime, touching the responsibility of those boys at the time that they committed the deed, and after I have heard it, whether I give it weight, what weight I give it nobody would know but myself, and after it is all in, then determine what punishment should be inflicted.

I don't know what they are going to introduce here, I have not the least idea except they put a medical man on the stand --

MR. MARSHALL: If there is the introduction of the slightest evidence --

THE COURT: Show me an authority. The Court is sustaining your position on that.

MR. CROWE: We have read those authorities, but the Court said they are not authorities in opposition of to the plain words of the decision and the statutes.

which says the matters are peculiarly matters for a Jury.

THE COURT: The Geary case was not mitigation of anything. The Court has long gone through and found him guilty and sentenced him to death. His case was affirmed by the Supreme Court and then they set up that between the time that he committed the crime and the day set for the execution, that he became insane. Judge McDonald appointed this Commission and it was there they said counsel had no right to waive the constitutional right, and there they impaneled the Jury for what purpose? To determine whether or not Geary became insane between the date of the trial on which the Jury found he was sane, and the date of the execution, and they found he had.

MR. CROWE: And the sole question was whether or not the Court could pass on the sanity of a man or whether it was necessary to call a Jury. That is the only question.

THE COURT: That is where there was a clear case of a petition to try a man for insanity. There is no petition of that kind here.

MR. B. BACHRACH: The State's Attorney should file one

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if he wants a jury.

P. CROWF: How can your Honor say now or at the conclusion of this case that the evidence of the mental condition of these men don't amount to legal insanity? You have no right to say after having heard evidence, that I am convinced that this evidence does not amount to legal insanity, I am convinced that these men are sane and I have a right to sentence them on their plea. You have no right to do that.

THE COURT: Oh, yes.

P. CROWF: Because when the question of sanity comes up some person else, some other person may think --

THE COURT: If what you say is true --

MR. CROWE: Let me finish, Judge, -- Some other person may say that the evidence which you have heard, which you say does not convince you that they are legally insane, some other person may say it convinces me that they are legally insane, and the Supreme Court will say, there having been evidence introduced that might raise a doubt in somebody's mind, a reasonable doubt, that matter had to be submitted to a Jury, the Judge had no

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right to hear it and to determine it himself.

THE COURT: If what you say then is true there never could be a case of a plea of guilty, because you even say there may be evidence in mitigation.

R. CROWE: But not as to the mental condition.

MR. DARPOV: It is done every day.

THE COURT: Wait a minute, please. There might be evidence as to mitigation --

R. CROWE: But not to the mental condition.

THE COURT: Wait a minute, gentlemen. Supposing you admit there can be evidence put in in mitigation and supposing while introducing that evidence in mitigation that somebody takes the stand and says the man was insane, --

MR. CROWE: It would be your duty to call a Jury.

THE COURT: That is ridiculous. On mitigation somebody takes the stand solely for the purpose -- probably because they fear the penalty which is about to be meted out, and he takes the stand and says that man is insane, and I have to stop whether I believe him or not, whether I give his testimony any weight or not

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and say I must insist on that man withdrawing his plea?

MR. CROWE: Aren't you acting as a Jury then?

THE COURT: If the matter is submitted to me I will hear all the evidence introduced --

MR. CROWE: Aren't you deciding a question of fact when you say you don't believe he is insane?

THE COURT: I have a right to decide all questions of fact.

MR. CROWE: Not on the question of insanity.

THE COURT: They asked me to put on -- there is a man comes in and he wants to put on a witness in mitigation, and he puts on a man and then a doctor, maybe the family physician and during the course of his testimony he says the man is insane, put on there for that purpose, because he fears the Court is going to sentence him to death, and in order to prevent that he sticks on a fellow who says that man is insane; you say I have to believe what he says?

MR. CROWE: No, but you have to say that is a question for a Jury to pass on.

THE COURT: There is no authority in the world on it.

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Show me any authority.

MR. CROWF: I have read authority after authority to your Honor and your Honor insists on stating that the plain words of the statute and these authorities don't mean what they say.

THE COURT: Anything further?

MR. CROFT: Any judgment entered by your Honor in this case would be absolutely void if you hear this evidence, and sentence them to life and Mr. Darrow will take it to the Supreme Court, I will confess error.

THE COURT: I cannot help what you gentlemen do after I get through with it.

MR. B. BACHFACH: I want to say this, if the Court please, that in this matter it appears it is not for the attorneys for the defense to decide whether your Honor shall hear evidence of mental irresponsibility short of insanity. It is not in your Honor's mind, but it is to be decided entirely by our State's Attorney who can't think of anything in this case but hanging these boys. Now, there is no argument in spite of anything he says about the statute, about your Honor's duty, about the authorities here. There is not in Illinois, there is

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not in the statute one word which says your Honor may not hear in mitigation just ~~xx~~ such things as have appeared from the Nebraska case, the mental condition, intelligence and motive, and the things that are brought up that might have influenced him in the commission of the crime. All those things are to be heard. We have cited more an hour and a half, and it seems to me if your Honor did not hear this evidence it would be absolutely certain your Honor did not hear what the statute makes it mandatory for you to hear, witnesses testifying in mitigation. That is all I have to say about it.

THE COURT: Wasting an hour and a half don't make any difference. The lives of two men are at stake, and an hour and a half or a day and a half would not make any difference, if the Court can be enlightened.

R. MARSHALL: Moral insanity --

THE COURT: There you are on insanity again. I will not enter a judgment on insanity. The question is here, can the defense in mitigation show a mental condition of those young men at the time they committed the deed? Supposing they were under the influence of morphine, could not they show it?

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MR. CROWE: They could not show it, and it would not be mitigation any more than if they voluntarily got drunk, and the law says it would not mitigate the crime and would not excuse them in any manner.

THE COURT: What these gentlemen are going to introduce may not mitigate the crime one iota. I don't know what they are going to introduce.

MR. MARSHALL: There is one on mitigation before the California court, People, Respondents, vs. Marshall J. Miller, 114 Cal. Re. p. 10.

THE COURT: What is the case?

MR. MARSHALL: 114 Cal. Re. p. 10.

THE COURT: All right.

(Whereupon Mr. Marshall read from the above authority referred to in the witness and figures as follows:)

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THE COURT: We will take our usual ten minute recess now.

(Whereupon a short recess was taken.)

(Whereupon, pursuant to a short recess heretofore taken, the following proceedings were had.)

MR. CROWE: The Grand Jury wants to come in.

THE COURT: All right, have them come in.

(Grand Jury enters.)

(After the Grand Jury retired, the following proceedings were had:)

(Whereupon Mr. Marshall continued reading the same authority.)

MR. MARSHALL: State v. Maioni, 78 N.J. La., 339.

THE COURT: What is that?

MR. MARSHALL: 78 N. J. Law, 339.

(Whereupon Mr. Marshall read from the above authority referred to in the words and figures as follows, to-wit:)

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MR. MARSHALL: In Commonwealth v. Barner, 199 Pa.
335.

THE COURT: 198?

MR. MARSHALL: 199 Pa. 335.

(Whereupon Mr. Marshall read from the
above authority referred to in the words and
figures as follows, to-wit:)

18 MR. MARSHALL: In Sayers v. Commonwealth, Pa. 299,
the court charged the Jury thus:

(Whereupon Mr. Marshall read from the
above authority referred to in the words and
figures as follows, to-wit:)

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MR. MARSHALL: And now I want to read Commonwealth v. Hollinger, a very interesting case. Commonwealth v. Hollinger, 190 -- this is quite an extensive case, and Justice Crowe suggests we read it during the adjournment hour. Perhaps we better go until two o'clock and your Honor can read it.

THE COURT: We will now suspend until two o'clock.

(Whereupon an adjournment was taken until Wednesday, July 30th, A. D. 1924, at the hour of two o'clock P. M.)

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Wednesday, July 30, 1924.

2:00 o'clock P.M.

Court convened at two o'clock P.M. Wednesday, July 30th, 1924, pursuant to adjournment heretofore taken.

Present: Same as before.

(It was agreed between Court and Counsel that hereafter the hours of the trial would be from ten thirty to twelve thirty and from two o'clock to four o'clock in the afternoon).

THE COURT: Gentlemen, I have come to this conclusion: I have listened to what you have had to say and I have read some of the authorities. Here is what I think I will do. I am still of the opinion that if I should shut out this evidence it would be reversible error. However, I am willing to be shown. I am going to hear the evidence, and rule on its competency at the conclusion of the taking of the testimony, and before imposing sentence. I want a brief from the State, and a brief from the defense, by Monday morning.

MR. CROWE: If your Honor please, before you enter that order: We feel that if the evidence has been heard, your Honor cannot then strike it out.

THE COURT: Why not?

MR. WALTER BACHRACH: There is no jury here.

THE COURT: If there was a jury it would be different.

MR. CROWE: Our proposition is -- and we may not have made it as clear as we intended to -- if it comes to your Honor's notice that there is any question about the mental capacity of these defendants, then the duty becomes absolute upon your honor to call a jury. We would like, before your honor rules on such a vital and important matter, to give you all that we have got on it.

THE COURT: All right. Now, supposing we did as I suggested, and the evidence was admitted, and we would hear the evidence. Then we might strike it all out. For instance, we might put on the doctor here, Dr. White, or whatever his name is, and at the conclusion of his testimony you might move to strike out all of his evidence. Supposing it goes that far, and you move to strike it out. At the conclusion of the testimony I may strike out Dr. White's testimony, or Dr. Brown's, or Dr. Jones', and leave the evidence of one man in the record, say,

Or I may strike it all out, all of the evidence of all these witnesses, and they may put on somebody else whom I do not know anything about, and I may strike that all out too, but I am inclined to think, under the wording of the statute, that I must hear evidence in mitigation and evidence of aggravation. Supposing the State here wants to show an aggravated murder.

MR. WALTER BACHRACH: Didn't they?

THE COURT: They did, and I have allowed you to do it. I did not shut the State off because there was a plea of guilty. I did not say that there was no need of this or that, but I permitted the state to put on evidence of every detail. I did not care how long it took. Counsel for the defense thought it was not necessary, some parts of it, but I let it all go in, because time cuts no figure in a case of such importance as this, be it an hour, a day, a week or a month. I let you go into every detail, even under a plea of guilty. I permitted the State to put on 81 witnesses, even after a plea of guilty. What for? To show an aggravated murder. Now, then, under the wording of the statute, the statute says, "in mitigation". Give

me Smith and Hurd's there.

Section 732, Page 730, of Smith & Hurd's statutes, Chapter 38, under the Criminal Code, reads:

"In case where a party pleads guilty such plea shall not be entered until the Court shall have fully explained to the accused the consequences of any such plea," --

which the Court has done very fully here in this case --

"After which if the party persists in pleading guilty" --

which they both did

"such plea shall be received and recorded and the Court shall proceed to render judgment and execution thereon as if found guilty by a jury. In all cases where the Court possesses any discretion" --

and the Court has defined the punishment imprisonment not less than fourteen years or life or death --

"It shall be the duty of the Court to examine witnesses as to the aggravation or mitigation of the offense."

MR. CROWE: No doubt --

THE COURT: Now, then, under that wording of the

statute and where the Court permitted the State even over objections, although counsel withdrew his objections later -- that there was no necessity for putting on so many witnesses after a plea of guilty, the Court permitted eight witnesses to testify to every detail to show an aggravated murder; and after the State is through the defendants come in and they say that they are not going -- they don't claim their men are insane, that the defendants are insane, but they wish to put on certain evidence to show a mitigation of the crime. Now then, supposing I were to say no, and then should impose the extreme penalty. Would not the Supreme Court say that everybody who is found guilty of murder is not executed or should be executed and if the Court had listened to mitigating circumstances then he would not have imposed the death penalty if he had listened to any mitigating circumstances that witnesses testified to; but if I did not admit that would not the Supreme Court say that I should have listened to what the defendants had to say rather than have made an arbitrary ruling and sentenced them to whatever it might be?

MR. CROWE: There is no difference in your Honor's

mind and ours on that point. Your Honor has said that it is necessary for you to listen to evidence in mitigation. We contend that this evidence is not in mitigation but is a matter of defense.

THE COURT: How can I tell before the questions are put and before the witness testifies? You have not a jury here.

MR. CROWE: Counsel have stated what they expect to prove. They are going to show by doctors that their minds are in such a state that they are not to be held to full accountability. Now, before your Honor makes your decision here -- this matter is so vital -- we would like to fully present the law.

THE COURT: I think that you are getting mixed between the responsibility -- they are not going to state that their clients are not responsible.

MR. BACHRACH: May we state our own position rather than have the State's Attorney state it for us?

THE COURT: State it, and I will let you go on, if you want to have it your own way I have no objection.

MR. BACHRACH: It is our position here, if the Court please, that the question of insanity which is asserted

or attempted to be asserted as a defense ordinarily is a legal matter which deals with the question of the capacity of the defendant to distinguish between right and wrong or choose between right and wrong. We do not intend to offer any evidence which bears on the capacity of these two defendants to distinguish between right and wrong or to choose between right and wrong as of the time of the commission of the offense on the 21st day of May, 1924.

Our plea of guilty in this case admits that on that date they were legally sane. Therefore, we do not propose to offer any evidence to show that on that date they were legally insane. We do propose to offer evidence, however, to show a mental condition, a mental disease functional in character, not an organic brain disorder like paresis or something of that kind that would affect the capacity of the defendants to choose between right and wrong, but that there was a functional mental disease which would have been insufficient for the defense to have asserted here on an issue before the jury on the question of guilt, that these defendants were insane. But we

still say that that evidence, falling short of a competent legal defense, is a circumstance which this court may take into consideration, and should, in determining the punishment to be meted out to these defendants in the exercise of the discretion conferred upon the court by the statute. That is our position.

MR. CROWE: Our interpretation of that is, your Honor, that they are attempting to show degrees of responsibility. There is nothing in law known as degrees of responsibility. You are either entirely responsible for all the consequences of your act, or you are not responsible at all. Whether they term that legal insanity, or whether they term that moral insanity, or whether they call it some other name and leave insanity out, it still presents to the court, in our judgment, a defense of insanity; and I insist that in a murder case where counsel cannot waive any of the rights guaranteed the defendants by the constitution, where even the defendants themselves cannot waive them, - the defendants could not sign a jury waiver in this case; they cannot agree to this or that; the law places those safeguards

around them. While counsel may say that this peculiar mental disease does not amount, in our judgment, to a legal defense of insanity, your Honor may think or I may think that it does. There may be a wide difference of opinion as to the exact legal effect of that. We might all be in accord. Your Honor might think, I might think, and counsel for defense might think that this evidence of a mental disease did not amount to legal insanity; but the supreme court reading the record later on may come to a different conclusion and say, "That is the defense of insanity and it ought to be submitted to a jury."

If your Honor will permit us, we have made a very thorough and exhaustive search of the authorities, and before you decide this I think you ought to hear our authorities.

MR. WALTER BACHRACH: Your Honor, may I make one suggestion in connection with this situation. The State's Attorney keeps on referring to the duty of the court to call a jury to pass upon the question of sanity or insanity. Now, there are several kinds of insanity to begin with.

In the first place, the lunacy statute of the

state of Illinois provides for an investigation in the County Court where a person becomes dangerous to society, or is incapable of managing his property or his children. That does not depend in any way upon the question of his ability to distinguish between right and wrong. That has nothing to do with it. The court under that lunacy statute says he is insane when he is dangerous to society and puts him in an asylum.

The criminal code has several provisions relating to criminal insanity and one of them is Section 12 of Division 2, which provides that insanity at the time of the commission of the offense shall constitute a defense to a criminal prosecution. That relates to the time of the commission of the offense.

Section 13 of the same division is a provision relating to a situation where the defendant becomes insane after the commission of the crime, and provides that the defendant shall not be tried if after the commission of the crime he then for the first time becomes insane.

Section 14 provides that if after a verdict the

defendant shall appear to be insane, he shall not be sentenced.

Section 15 provides if after judgment it shall appear the defendant is insane, he shall not be executed.

But those are three steps in the determination of this question of insanity which all relate to insanity following after commission of the crime, and a totally different standard is applied in determining sanity in a hearing of that kind before a jury.

Under Section 12, which is the provision relating to insanity at the time of the offense, the test is the right or wrong test.

Under Sections 13, 4 and 15 of the statute the question is no longer the question of right or wrong or incapacity on the part of the defendant to distinguish between right or wrong; but the question of his capacity to understand that he is being tried, sentenced, or executed. The supreme court says that in the Geary case.

THE COURT: That is under Section 15?

MR. WALTER BACHRACH: That is under Section 15 after

judgment, and the rules of a civil case apply in that

kind of a hearing. In other words, the defendant in that kind of a hearing has to go still further; he must show not only that he was incapable of distinguishing between right and wrong, but he must show that he is incapable of understanding that he is going to be executed. There is a greater burden upon him in that kind of a case.

Now who determines that? Not the State's Attorney. A petition must be filed by the defense or some one must file a sworn petition in court setting up that the accused or the defendant is incapable of understanding that he is about to be executed, as was done in the Geary case; and upon such a petition being filed and sworn to, it is then the duty of the court to impanel a jury to pass on that question, not of general insanity, but upon the capacity of the defendant to understand that he is being tried at all.

The statute contains these words that in all of these cases, which was the language read by Mr. Crowe this morning, -- that in all of these cases where insanity occurs after the commission of the crime, not at the time of the commission of the crime, but after the commission

of the crime, the statute says when the defendant is so insane -- that is what the statute has been construed to mean in the Geary case -- that he cannot understand the nature of the case, then the court shall impanel a jury.

The situation provided for by the statute is not one where it appears to the State's Attorney that the defendants are insane or one where he does not want the court to hear mitigating circumstances, that then it shall be the duty of the court to impanel a jury, but the statute provides a situation where it appears to whom? Why, to the court, and it is made to appear to the court upon a properly sworn petition as to which there can be issue joined and tried.

There has been no petition filed here, sworn to by the State's Attorney that these defendants are so insane they cannot understand they are being tried. He claims they are sane and yet he is invoking the provisions of a statute intended for the protection of these defendants as a means of hanging them.

Now we get back to the original proposition we have here. We are not attempting to go into the

question of insanity in a legal sense at all by the evidence we propose to offer. We will offer evidence and propose to offer evidence solely as to the question of the mental condition, as to the disease, functional, not organic, but the diseased functional mental condition of these defendants on the 21st day of May, at the time of the commission of the offense, and to ~~in~~ show how that diseased functional mental condition entered into the commission of this crime, so that this court may then determine whether those facts entitle them to leniency and mercy at the hands of this court. Just the same, if your Honor please, as in proceedings that had been taken in the criminal court of Cook County time and time again. It has been a recognized practice in this court, and this is the first time it has ever been questioned as to whether or not the court could take into consideration as a mitigating circumstance the mental condition of the defendant who has pleaded guilty and is about to be sentenced.

MR. CROWE: I still insist, if your Honor please, that any evidence of any kind of insanity presents a

defense, and the law is extremely clear upon the proposition that that is a matter for a jury, and not the Court. It is not necessary that a petition be filed. That is one way of bringing it to the notice of the Court, that there is a question as to the mental capacity of the defendant. But you can bring it to the Court's attention a number of ways, and it does not have to be brought to the Court's attention by anybody. The Court can observe from the demeanor of the defendant himself that there is something wrong with him, and the defendant has a right on his own motion to have the question of his mental condition inquired into by a jury. As to the statement of counsel just made, that there is a mental disease that they intend to show, in both of these defendants, that caused them to commit this crime: how can he or you or I say that that mental disease does not amount to a legal defense?

MR. WALTER BACHRACH: We can listen and hear.

MR. CROWE: He can listen and hear, and then the law says, as soon as it is brought to your attention -- and it has been brought to your attention now by the statement of counsel, that there is a question as to

the legal capacity of these men, it becomes the duty of the court immediately to impanel a jury.

MR. WALTER BACHRACH: There is no such question here.

MR. CROWE: If your Honor will permit us to finish with our authorities, I think we will convince your Honor of the soundness of our position.

THE COURT: I will give you all the time you want. If you can enlighten the Court in any way I will give you all the time you want.

(Assistant State's Attorney Marshall then continued his argument).

MR. MARSHALL: Continuing with the discussion of so-called medical insanity, sometimes called moral insanity, and defined in the books as depravity, a ~~vicious~~ vicious course of life, profligacy, - one type of insanity, not in a legal sense but in a medical sense: the answer made by the Supreme Court of Pennsylvania in the case that was read this morning and in the case of Commonwealth vs. Hollinger, 190 Pennsylvania, 155, seems to be very complete. You will remember the language of one case, "The slant of perversion is no more a defense than a slant of vision."

In Commonwealth vs. Hollinger it is said:
Insanity can be pleaded as a defense to a charge in
crime, but not in mitigation of the degree of guilt.
The courts ~~to~~not ask the jury to undertake the impos-
sible task of discriminating between degrees of insanity.

And what there the court would not ask the
jury to do, that impossible task, by this maneuver, the
defense attempts to have your Honor undertake.

THE COURT: That was not a plea of guilty, was it?

MR. MARSHALL: It was a jury trial, but the legal
effect is the same.

THE COURT: Oh no. Will the State send for the
Pennsylvania statutes. A plea for guilty for murder
in Pennsylvania, as I understand it, makes it only
second-degree murder, and you have got to show other
evidence before you can convict --

MR. MARSHALL: Premeditation.

MR. DARROW: Was there any statute like ours in
reference to considering facts in mitigation and
aggravation at that time?

MR. MARSHALL: Section 8182 of the Pennsylvania
statutes, plea of guilty statutes, says:

"Whenever hereafter any person is charged

"with the commission of any crime, and is willing to enter a plea of guilty, no bill of indictment shall be sent to the Grand Jury, but the District Attorney shall prepare a bill in the usual form, and the plea of guilty shall be entered thereon, and the Court shall thereupon forthwith impose sentence; provided that nothing in this act shall be construed to relate to or change the proceedings in homicide cases in this Commonwealth; and, further, that the defendant may withdraw his plea at any time before sentence, by leave of Court."

There are states where a plea of guilty is filed, and a jury is called to determine the punishment. So that what the practice is in Pennsylvania will require a little further inquiry in that regard.

Your Honor suggested that you thought there was a difference here because that was a jury trial, and it is clear enough that whatever might go to a jury under these circumstances would go to a court or what might not go to a jury might not go to the court.

THE COURT: Yes, well, practically so, yes.

MR. MARSHALL: That is why I said there was no difference. This was before a jury on mitigation.

The court goes on and says, "If he was in the condition of mind that would excuse the man because he was not conscious of the nature of the act it would then be your duty to acquit him on that ground and it would be your duty to say that you did acquit him on that ground because if his mind was in the condition that he was not responsible for what he was doing he would not be responsible for manslaughter any more than he would be for murder, and the important thing for you to determine is whether this prisoner at the time he committed this offense did it wilfully, deliberately and premeditatedly. If he did, he was guilty of murder in the first degree; unless you found that the state of his mind was such that at the time he was not conscious of the nature of the act and therefore irresponsible there must be a verdict of guilty of murder in the first degree."

Your Honor will note the word "responsible," running through all of these cases from the legal viewpoint.

The testimony in that case showed conduct so brutal, the act was such, was of the kind as induced our predecessors in the administration of the criminal law to charge in the indictment that the accused was "instigated by the devil." (Still reading from the case):

"We have not been able to find any case in Pennsylvania which defines that there is a grade of insanity that while not sufficient to lead to the acquittal of the prisoner charged with murder is sufficient to lower the degree of the crime"* * *

(Counsel continues reading from the Hollinger case).

MR. MARSHALL: Now, I wish to cite to your Honor the case of Canon vs. the State, 74 Texas, Criminal Reports, page 467, and I will read you the syllabi:

"General reputation of insanity cannot be proven."

Syllabus 25 says:

"On a trial for murder where the only defense is insanity manslaughter cannot be an issue.

There is no grade of insanity that mitigates

"crime. It never operates as a mitigation of homicide as it goes only to the punishment and not to the character of the act itself. In such a case it is not error to fail or refuse to charge upon manslaughter."

And again:

"If the defendant has an irresistible impulse to commit crime and does not know the nature and the quality of the act he is insane.

If he does know the nature and quality of the act and does know right from wrong, and knows the act to be wrong, he is not insane."

Quoting again,

"If the defendant at the time was laboring under a delusion and such delusion deprived him of the capacity to know right from wrong, he was insane.

There is no grade of delusion that mitigates crime. In other words, a party cannot be half insane. He is either sane or insane.

Insanity never operates as mitigation of a homicide as it only goes to the punishment and not to the character of the act itself and

"its only effect is to exempt the criminal from the punishment prescribed for homicide without exonerating him from the charge of committing it * * * The prayer rests upon the idea that there is a grade of insanity not sufficient to acquit a party of the crime of manslaughter and yet to acquit him of the crime of murder. The law does not recognize any such distinction as that."

"The rule of law is very plain that in order that the plea of insanity shall prevail, there must have been that mental condition which disabled him from distinguishing right and wrong in respect to the act committed."

That is to say, in another way, that a person cannot be half insane. Now, that is unreasonable, if your Honor please. This is a great temple of justice, where we are dealing with the law. The alienists and the doctors deal with it from the standpoint of the individual, the psychopathic hospital, where they have one or two or three hundred gradations and variations,

each with a name, but they cannot bring this array of medical literature into court for our purposes under the law, when the only test with us is, responsible or not responsible? As you have seen, these delusions do not mitigate crime. They have no operation, save the one that they exempt the prisoner if he be insane. Judge Crowe suggests, and I have read it also, that the alienist is concerned only with the welfare of the individual as a patient, where as we, as representatives of the People, are concerned with the enforcement of the law and the safety of the State. Remember, if your Honor please, that mitigation and aggravation, under the language of the Smith case in Colorado, are provided for by statute, so that society may be protected. That is one of the cardinal elements of aggravation, as over against anything that may appear in mitigation.

Then consider this, that mental insanity -- this moral mania, this moral insanity, resting on and being the medical definition, if your honor please, for depravity, for a vile course of life, for profligacy, means what when presented in mitigation?

Only this, that they bring in here their vile conduct as mitigation for a great crime.

MR. WALTER BACHRACH: Mr. Marshall, may I ask you a question?

MR. MARSHALL: Yes.

MR. WALTER BACHRACH: Do you draw any distinction between the mitigation of the crime and the mitigation of the punishment?

MR. MARSHALL: Yes.

MR. WALTER BACHRACH: What is the difference?

MR. MARSHALL: You answer it when it is your turn.

MR. WALTER BACHRACH: Those cases that you are reading all deal with the mitigation of the crime, and not with the mitigation of the punishment.

MR. MARSHALL: You think so?

MR. DARROW: You said he could ask you a question.

MR. MARSHALL: I didn't say that I would divert my argument to answer you.

So that Witty vs. The State, concludes, to this proposition, that is to say, in another way, that a person cannot be half insane. That means of course now, half insane in a legal sense, not in a medical sense at all, because we are not dealing with medicine here.

Now I will take the case of Feree vs. Commonwealth, 193, Kentucky, 347:

Whereupon Mr. Marshall here read from the above authority in the words and figures following:

1
Harvey
rels
Snyder
3:06
P M
7-30-34

MR. WARDEN: Now, examine this language, of the
Supreme Court in passing upon a homicide where the
sentence is death.

(Whereupon Mr. Warden read from the above
authority referred to in the words and figures
as follows:)

2

MR. MARSHALL: A pathological condition of the mind, he says, exists, that permits him to bring in alienists in mitigation of the punishment, when they've closed the door. They have settled that question by their plea of guilty in the case. I continue reading.

(Whereupon Mr. Marshall continued reading from the above authority referred to, in the words and figures as follows, to-wit:)

3 R. MARSHALL: An interesting case is State v. Spencer, 8 N. J. Law, 21. N. J. Law, 196, seems to be a reporter's note, but for the importance of the language used it is inserted in the reports at page 205. They say:

(Whereupon R. Marshall read from the above authority referred to in the words and figures as follows:)

4 THE COURT: We will have a five minute recess, gentlemen. Only five minutes today be use we are going to sus end at four o'clock.

(Whereupon a short recess was taken)

(Whereupon pursuant to a short recess heretofore taken the following proceedings were had.)

THE COURT: Proceed.

MR. MARSHALL: In the case of Roberts v. State of Georgia, 3 Ga. 310 --

THE COURT: Wait a minute, the defendants are not here.

(Defendants enter court room.)

THE COURT: Repeat that, the boys are here now.

MR. MARSHALL: In the case of Roberts v. State of Georgia, 3 Ga. 310, the Court sustained an instruction which told the Jury that if the defendant had memory and intelligence even a glimmering of reason sufficient to enable him to distinguish between right and wrong in regard to the particular act about to be committed, the Jury were to find him guilty. At the time he committed the assault and previously he was violent,

4 in his conversation. He seems to have been on that day the very person to whom Mr. Erskine denies the protection of innuendo * * *

(Whereupon Mr. Marshall read from the above authority referred to in the words and figures as follows, to-wit:)

5

MR. MARSHALL: I quote that case, if your Honor please so that you shall have the benefit of that great lawyer, Mr. Frskine's view upon what are the limitations of this rule.

Balwin v. State, 12 Mo. 223, at page 234.

(Whereupon Mr. Marshall read from the above authority referred to in the words and figures as follows:)

6 MR. ASPHALL: Green v. Commonwealth, your Honor,

MR. V. BACHRACH: What is the citation? of Green v. Commonwealth?

MR. MARSHALL: I will withdraw that.

MR. V. BACHRACH: Give us the citation just the same.

MR. MARSHALL: Yes, 94 Mass, 12 Allen 155. But it has to do more directly with the plea of guilty than it has to do with this class of cases.

Flannigan v. People, 52 N Y 467.

(Whereupon ~~Mr.~~ Marshall read from the above authority referred to, in the words and figures, as follows-to, wit:)

7

MR. MARSHALL: Then how can it be used in mitigation when they had closed the door upon the issue, they having all the opportunity that the law gives to every man before their plea, and they came in here and said upon this we are sane. Their plea means they are sane.

(Whereupon Mr. Marshall continued reading from the above authority referred to, in the words and figures as follows:)

8

MR. MARSHALL: Now, Hogue vs. The State, 65 Texas Crim. Rep. 539. This court has never recognized the doctrine that a person with a mind below the normal should be punished for a lower grade of offense if found guilty, than a person of normal mind. The only relief -- mark these words -- the only relief offered any person of unsound mind under our statute and practice is that if such person is incapable of knowing and understanding the act when committed to be wrong, he is not susceptible to any punishment. It would be a strange principle indeed if the Courts were permitted to speculate as to the degree of intelligence existing in the minds of persons charged with crime, unless some limitation or point is reached where culpability ceased, and when that point was reached he was not culpable.

People v. Scott, 59 Cal. 341.

THE COURT: What number?

MR. MARSHALL: 59 Cal. 341. The defendant was prosecuted by information for the crime of incest and upon his arraignment pleaded guilty to the charge. Subsequently and before sentence it was suggested to the Court that

9 the defendant was insane. Thereupon the Court ordered that the question of insanity be tried by a jury. The trial occurred and the Jury pronounced the defendant insane, and he was sent to an insane asylum and afterwards discharged on the certificate of the physician in the asylum that he was then sane, whereupon the Court below sentenced him to ten years imprisonment in the State's prison. Paralleling somewhat to the Geary case.

(Whereupon Mr. Marshall read from the above authority referred to in the words and figures as follows:)

10

R. MARSHALL: The rule is well settled --

T. W. BACHRACH: What is the citation?

MR. MARSHALL: 16 Corpus Juris 79.

(whereupon Mr. Marshall read from the
above authority referred to in the words and
figures, as follows:)

11

MR. MARSHALL: Cunningham v. The State, 56 Miss.,
that is the 36th Am. Reps. 360. I regret I have not
the Mississippi page number.

MR. W. BACKUS: American Reports or American State
Reports?

MR. MARSHALL: American reports.

MR. W. BACKUS: 360?

MR. MARSHALL: 360.

MR. W. BACKUS: Cunningham v. State?

MR. MARSHALL: Cunningham v. State (Reading)

(Whereupon Mr. Marshall read from the above
authority referred to, in the words and
figures, as follows:)

12

F. MARSHALL: In re Estate of Foreman, 54 Barber,
N.Y. 274, at page 291.

(Whereupon Mr. Marshall read from the above
authority referred to, in the words and figures as
follows:)

13 MR. MARSHALL: Rex v. Offord, English Common Law
Reports 5 C & P , 168.

(Whereupon Mr. Marshall read from the above
authority in the words and figures as follows:)

14 W. DARROW: Do you think that is the law here?

W. MARSHALL: Not in those words, but as to his knowledge of the consequence of his act, generally speaking, yes.

Spencer v. State, 69 Maryland, 28, at page 41:

(Whereupon Mr. Marshall read from the above authority in the words and figures as follows, to-wit:)

15

MR. MARSHALL: That is Maryland. Counsel read
a case from Nebraska this morning, and I want to
read one from Nebraska. Bothwell v. State,
71 Neb. 747.

MR. J. BACHMAN: Was that on a plea of guilty?

MR. MARSHALL: I don't know the facts, I have noted
only what they said about moral insanity. I will
check that up though and advise you. I think it
is not. At page 750.

(When upon Mr. Marshall's read from the above
authority in the words and figures as follows,
to-wit:)

16

MR. FARRROW: You would not claim that would be the law in Illinois would you?

MR. MARSHALL: Very close to it.

MR. FARRROW: What?

MR. MARSHALL: Quite closely.

MR. FARRROW: Well quite differently.

MR. MARSHALL: Taylor v. Commonwealth, 109 Pa. State Reports, 263. I meant to read this case this morning with the Pennsylvania cases. Page 270.

(Whereupon Mr. Marshall read from the above authority in the words and figures as follows, to-wit:

17

MR. MARSHALL: Bobard v. State, 30 Miss. 600.

D. LARROW: That was before the war, wasn't it?

MR. COURT: Your Honor, I have the Pennsylvania statutes here. Do you want them?

MR. MARSHALL: There is some good law even in Mississippi.

THE COURT: Yes, thank you.

Beginning tomorrow there will be two sessions of court, each session two hours. The first session will begin at 10:30 and run from 10:30 until 12:30; the second session from 2:00 until 4:00. The lawyers on both sides have requested it and that is what we will do from now on. We will suspend now until tomorrow at ten thirty.

(Whereupon an adjournment was taken until

Thursday, July 31st, A. D. 1924, at the hour of 10:30 o'clock A. M.)

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