

Record - - No. 16

HARRY B. WOLF

VS.

STATE OF MARYLAND.

SAMUEL K. DENNIS,
F. NEAL PARKE,
THOMAS H. ROBINSON,
H. WEBSTER SMITH,
GERALD W. HILL,

For Appellant.

ROBERT F. LEACH, JR.,
HERBERT O'CONOR,
EDGAR ALLAN POE,
ALEXANDER ARMSTRONG,

For Appellee.

IN THE

Court of Appeals

OF MARYLAND.

APPEAL FROM
THE CRIMINAL COURT
OF
BALTIMORE CITY.

APPEAL TO
APRIL TERM, 1923,
OF THE
COURT OF APPEALS OF
MARYLAND.

FILED FEBRUARY 3RD, 1923.

HARRY B. WOLF,
Appellant,
vs.
STATE OF MARYLAND,
Appellee.

IN THE
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APRIL TERM, 1923.
GENERAL DOCKET No. 16.

APPEAL FROM THE CRIMINAL COURT OF BALTIMORE CITY.

BRIEF OF APPELLANT.

INTRODUCTION—PART I.

This is the appeal of Harry B. Wolf from the judgment of the Criminal Court of Baltimore City pronounced after a verdict of guilty by five Judges and the refusal of a new trial by the ten Judges who composed the Supreme Bench of Baltimore City. The charge was a criminal conspiracy; and his conviction as hereafter shown wholly rests upon the uncorroborated testimony of a solitary witness, John B. Keller, at once a bad boy, thief, accomplice and perjurer.

The record offers a situation without a precedent in the annals of this Court to afford a comparison. The

overwhelming disaster which has reduced the appellant and his family to their immitigable woe and dishonor can only be attributable to an errancy of judgment in the trial Court that was directly responsive to the great mass of hearsay, misleading and irrelevant testimony introduced into the case over the objection of the appellant.

The record contains many exceptions, but not one was necessary. *Ubi jus ibi remedium*. When this learned Court shall rise from the reading of the record it is our firm conviction and constant faith that, even if there had not been a single pertinent assignment of error on this record, the Court of Appeals of Maryland would send this case back for a new trial out of the abundant reserve power of the Court to prevent wrong and to secure justice.

Wiborg vs. United States, 163 U. S., 632, 658, 41 L. Ed. 289, 298.

Crawford vs. United States, 212 U. S., 183, 194, 53 L. Ed., 465, 470.

Clyon vs. United States, 197 U. S., 207, 221-222, 49 L. Ed., 726, 731, 732.

Moore vs. Dempsey, U. S. S. Ct., No. 199, October Term, 1922, advance sheets, February 17th, 1923.

Fountain vs. State, 135 Md. 77, 85.

Parker vs. State, 67 Md. 329, 331, 332.

This Court has ably asserted and applied the principle and it is expressed nowhere better than in *Lanasa vs. State*, 109 Md. 602, at page 621.

"The appellant was accused of a crime of great atrocity; but he was entitled to all the presumption and to all the safeguards which the law has provided for the protection of the personal liberty of the citizen. He was presumed to be innocent, and this presumption was an absolute protection against conviction and punishment until it was overcome by proof which placed his guilt beyond any reasonable doubt. This presumption attended him throughout all the proceedings against him from the beginning until his conviction after a fair and impartial trial. He had a right to be judged by the law of the land; and where it appears as it does by this record, that he has been denied the benefit of substantial rights during the progress of the trial, it is the duty of this Court to reverse the judgment and award a new trial."

McAllister vs. State, 140 Md. 652.

DISCUSSION OF FACTS—AN OUTLINE. PART II.

Harry B. Wolf, aged forty-two, twenty-one years a member of the Bar, with a large practice, married, the father of four sons, was convicted in November, 1922, upon an indictment charging him with Walter Socolow (a young thug convicted of murder in the first degree) and John Keller of conspiring on August 23, 1922, to obstruct justice (a peculiarly revolting offense if committed by a lawyer) and was sentenced to pay a mere fine of \$100 and costs.

The State did not rely on circumstantial evidence, but on direct evidence of a specific agreement entered into on August 23.

Mr. Wolf was convicted upon the uncorroborated evidence of Keller—an alleged co-conspirator—the only wit-

ness who testified that an agreement was entered into by Mr. Wolf to join a conspiracy so heinous.

The Court let in much irrelevant evidence and hearsay evidence against Mr. Wolf relating remotely if at all to the alleged offense, and a lot of mere narrative repeated by police and others as to statements and acts of Keller and police activities, all out of the presence of Mr. Wolf, and which in the disturbed state of the times was grossly prejudicial to Mr. Wolf. Such improperly admitted testimony will be treated in detail later.

Mr. Wolf tendered any aid he could consistently give the police, and refused to represent any one professionally against whom the State had any proof; and he was asked by the Baltimore Sun to aid in detecting the murderers, gave what suggestions occurred to him and whatever information he got that he could in any way consistently disclose and kept silent as to matters he could not with propriety tell—policies afterward twisted and distorted, strange as it may seem, to his hurt.

The actual murderer of Mr. Norris was said to be Socolow, who hid in and about Baltimore until August 23, at night, when hopeless after Mr. Wolf refused to represent him, he fled to Washington, and later to New York, where he was arrested about 30 days later.

The State alleged and undertook to prove a conspiracy arranged by word of mouth at Mr. Wolf's home on the night of August 23, and that must have ended at the latest with an alleged confession by Keller when under arrest early on the morning of August 28, 1922.

HISTORY.

William B. Norris was set upon, robbed and murdered by a set of thugs at the corner of Madison street and Park avenue, Baltimore, on the morning of August 18th, 1922.

The assassins escaped in an automobile. There were several eye-witnesses to the murder. Full and more or less accurate accounts of the assault were published in the Baltimore papers of that day and for many days thereafter. His companion was beaten and robbed.

Many innocent, as well as guilty, parties were subsequently arrested in a general round-up at various times and places by the police on suspicion or direct proof, including one Jenkins from Philadelphia, and several others, released, and represented at the preliminary stage, as were others, by Mr. Wolf or other lawyers.

Socolow was brought to Baltimore and tried before Court and jury at Towson, convicted and sentenced to the penitentiary for life. Hart, Smith and Carey were tried and convicted and sentenced to life imprisonment. Heard, Lewis and Novak were indicted as accessories, tried before the Court and convicted and sentenced by the Chief Judge of the Supreme Bench. Hart plead guilty and was sentenced to life imprisonment.

Allers, one of the actual murderers, was arrested, confessed on August 22 (the date is significant), turned State's evidence and was given immunity as to all of several crimes committed in Baltimore City.

VISIT TO MR. WOLF' HOME.

On the night of Wednesday, August 23rd, after Allers had confessed, and all guilty parties were under arrest, except Hart and Socolow, and all implicated by Allers, and Allers' confession had appeared in the Baltimore afternoon papers, the said Socolow, with Keller, who had acted as lookout man and messenger boy for Socolow and Hart, walked from the Home, Sweet Home Cemetery, near the Eastern city limits, where they had hidden, to the corner of 22nd and Charles streets, secured a taxicab by phone from drug store, and went out about dusk to Mr. Wolf's house, Park Heights and Slade avenue, with a view on Socolow's part of securing Mr. Wolf's legal services. They reached Mr. Wolf's house, driven by one, Bossom, chauffers, between eight and eight-thirty. o'clock, daylight-saving time.

Their visit was totally unexpected by Mr. Wolf and without previous notice to him.

Mr. Wolf's family had spent the day at Sandy Beach, Bay Shore. His dinner was late, and when Socolow and Keller arrived he and his family and guests (the party consisting of Mr. Wolf, his mother-in-law, Mrs. Cohen, Mrs. Wolf, his sister-in-law, Miss Cohen, and a guest, (Mrs. Goodman) were at the dinner table.

Hearing the doorbell, Miss Cohen went to the side door opening on the porch fronting upon the driveway, to the north side of Mr. Wolf's residence, and Socolow and Keller were there. They asked for Mr. Wolf, declined to give their names, because Mr. Wolf, Socolow said, "would not know them," were invited in by Miss Cohen,

who placed them in the reception room located in the northwest corner of the residence, and turned on the electric lights. The rest of the house, including porches, was already lighted.

All the windows in Mr. Wolf's residence were open and the blinds up. The taxicab driver, Bossom, waited outside for his two fares, Socolow and Keller.

Miss Cohen returned to the dinner table and reported to Mr. Wolf that "two of the worst-looking men" wanted to see him. She was excited because of the appearance of the two visitors, who were without coats or collars, were dishevelled, dirty and hot.

Mr. Wolf and his family continued dinner and after finishing the meal talked over the events of the day at the table, and finally they all proceeded from the dining-room—Mr. Wolf last—through the large central hall towards the front or western part of the house. Mrs. Cohen, Miss Cohen and Mrs. Goodman turned to the left to enter the library at the southwest corner of the building. Mr. Wolf turned to the right to see who his visitors were in the reception-room immediately across the central hall from the library.

Mr. Wolf had represented Socolow, a stranger, on a trivial vagrancy charge eight or ten months before, receiving and asking no fee, and upon entering the reception-room recognized Socolow. He was surprised and exasperated at Socolow's intrusion, with the community agog, and greeted Socolow with, "What in the hell are you doing here?"

Mrs. Wolf was immediately behind him, and was unnerved at the appearance of the men, and the feeling that they were two of Mr. Norris' murderers.

Keller was an entire stranger to Mr. Wolf, and Mr. Wolf supposed him to be one of the Norris murderers, judging that from his association with Socolow.

Mr. Wolf never saw Keller privately or alone in his life; *and was offered no fee or compensation by either Socolow or Keller, and had nothing to gain from either.*

Mr. Wolf believed that in Socolow there was a man of desperate character in his home, a menace to the community, described by eye-witnesses as having actually murdered Mr. Norris and subjected his fallen body to indignities, and Mr. Wolf was apprehensive. Mr. Wolf also feared an immediate attack upon his house by the pursuing police and resistance by Socolow and his then unidentified companion, Keller.

Desiring time to consider, he motioned to Socolow and Keller to go on back, and told them to wash up, directed them to the kitchen, he following them with Mrs. Wolf. Upon entering the kitchen he asked the cook if she objected to the men washing themselves, and if she would mind giving them a bite to eat, and he passed through the kitchen out in the yard with Mrs. Wolf, who was trembling and nervous, Mr. Wolf the while endeavoring to quiet her.

Keller and Socolow washed, Keller drank a cup of coffee in the kitchen, Socolow took nothing, and complained of his stomach. Mr. Wolf returned from the back yard

in a few minutes to the kitchen, and directed Socolow and Keller to go ahead of him through a narrow hall that parallels the big central hall—the narrow hall leads from the kitchen to the dining-room. Keller and Socolow proceeded as directed through the narrow hall from kitchen to dining-room, and Mr. Wolf paused in the kitchen and told the colored butler, George Taylor, that those were two desperate men, and to stand by and give him a lift quick if any trouble occurred.

Mrs. Wolf re-entered the house by the side door. Mrs. Goodman left in Mr. Wolf's machine. Mrs. Cohen and Miss Cohen were already seated in the library, and Mrs. Wolf joined them in the library.

The library is directly connected with the dining-room by a sliding door, which was open. The dining-room is connected with the hall by a wide entrance protected by portieres. The dining-room also adjoins a small breakfast room and is connected with the breakfast room by a swinging door. George Taylor, the butler, in deference to Mr. Wolf's warning, seated himself in the breakfast room near the swinging door and remained there throughout the whole balance of the time Socolow and Keller were under Mr. Wolf's roof. Mrs. Cohen, Miss Clara Cohen and Mrs. Wolf sat in the library throughout the whole time that remained that Keller and Socolow were in Mr. Wolf's house. *The three ladies above mentioned and George Taylor were in a position to hear, and did hear, everything that was said by and between Mr. Wolf, Keller and Socolow whenever the three were together.*

Mr. Wolf followed Socolow and Keller from kitchen to dining-room, when at that instant Detective Hammersla,

of the Baltimore City Police Force, was announced to Mr. Wolf by Miss Cohen. Mr. Hammersla had come to call, and took his seat on the porch—the width of the house distant from Socolow and Keller—who were in the dining-room. Mr. Wolf immediately backed out and left Socolow and Keller and went out to see Hammersla, and remained with him except to answer the phone and immediately return till he left. *Before Hammersla left, three men, Schwartz, Reamer and Siegel, called to see Mr. Wolf on business. Mr. Wolf was continuously with one or the other or both of these two sets of visitors. After getting through with the last set, Mr. Wolf, for the first time, returned to his dining-room, where Socolow and Keller had waited for him a considerable time, was besought by Socolow to represent him, Socolow, and Mr. Wolf peremptorily, loudly and profanely refused in an interview of two or three minutes or less, and advised Socolow to give himself up. Socolow and Keller at once left.*

Keller says that in the few minutes' time he, Socolow and Mr. Wolf (when every word spoken was heard by three ladies in adjoining room with communicating door open and by the butler who was stationed in the breakfast room near to swinging connecting door) were together that the fantastic, impracticable scheme, barren of every possibility or promise of fee or benefit to Mr. Wolf of any sort was twice broached, and considered. *He never said that Mr. Wolf agreed to go into it.*

He puts the compact as having been made at a time when Bossom, State's witness, puts Mr. Wolf with the three men or with Hammersla and away from Socolow and Keller entirely.

The State relies absolutely and exclusively on Keller for any testimony to prove a conspiracy was entered into between Mr. Wolf and his two unwelcome visitors, Keller and Socolow, in Mr. Wolf's house on August 23, when his wife, sister-in-law, mother-in-law and servant were situated as described and who all heard all that was said.

Without Keller the State has nothing.

The testimony of Keller as to the essential facts, offered on behalf of the State, is at odds with that of all other witness on every disputed point involving Mr. Wolf; and is nowhere corroborated in any material particular.

THE ALLEGATION OF CONSPIRACY.

Keller said, on direct examination (R., 96):

“Q. What was done with you then; what did you do; what part of the house did you go to? A. Mr. Wolf said, ‘Who is this kid; is this Hart?’* And Socolow said, ‘No, it is a kid by the name of Kelly, wanted for an automobile case.’ He asked Socolow if he wanted something to eat, and me and Socolow went in and ate. Before we ate he told us to wash our hands, and we did that and we ate, and he went out into the yard.

Q. After you got through eating in the dining-room, where did you go? A. Went out on the porch. It was on the opposite side we came in, the one leading towards the city.

Q. What did you and Socolow do when you got out on the porch, sit down? A. Yes, sir.

* One of the murderers, an adult.

Q. Did Mr. Wolf come out on the porch while you were there that night? A. Yes. When Mr. Wolf first came out on the porch, he said, 'A brutal thing you did, Socolow.' Socolow said some man came down the street and the man kicked him, right here (indicating pit of the stomach). The man ran back up the street and he shot him. And he went over, and the man kicked him, and he kicked the man and took the money.

Q. Now, who did he tell that to; who did Socolow tell that to? A. Mr. Wolf.

Q. What did Mr. Wolf say then, John, if anything? A. Socolow told him he needed the money, so Wolf said, 'Why didn't you come to me; I would have lent you a couple hundred dollars.' *Then the detective came.* (No conspiracy mentioned yet.)

Q. How did you know the detective came, if one did come? A. A lady came in and told him.

Q. What happened then, John? A. He went out to the detective, Mr. Wolf.

Q. Now, when Mr. Wolf came back, what occurred, what did Walter say to him or Mr. Wolf say to Walter? A. Asked him how would this sound; how would this do?

Q. Walter did? A. Yes, sir.

Q. What was it he said there? A. I said I heard Allers say he was framing Socolow.

(The Witness) Then he told me to say instead of Hart and Socolow taking me to the box, Frank Allers, took me there.

Q. (By Mr. Leach) Was anything said about the name of Allers? A. Chicago.

Q. (By Mr. Leach) Then the telephone rang? A. Yes, sir.

Q. What happened then? Did Mr. Wolf sit there or go out? A. Went to the telephone.

Q. Was he gone to the telephone very long? A. Couple seconds.

Q. And when he came back, what happened? A. He said, 'I didn't get you; tell me it again.' And so I told him again. Told him the same thing I told him the first time.

Q. (By Mr. Leach) What did you tell him the first time? A. About Allers taking me to the box instead of Hart and Socolow, and that I heard Allers say he was framing Socolow.

Q. Now, what was said, if anything, by anybody about having nerve or not having nerve?

(The Witness) He said, 'If you have got the nerve it is all right.' And Walter said, 'I know a kid can talk pretty good by the name of "Shovels," but he don't know anything about it.'

Q. Who used the words, 'If he has got the nerve, it's all right,' Wolf or who? A. Mr. Wolf.

Q. And where were you when that was said? A. On the porch.

Q. *Then what happened, as near as you can remember it now?* A. *A couple fellows came.*

(Bossom, Hammersla and the three new visitors testified the visits overlapped and Mr. Wolf was continuously with his visitors.)

Q. And did they stay long, or maybe you don't know. I don't? A. A couple minutes.

Q. Yes. When you left there that night, what was said, what was the understanding, if any? A. Mr. Wolf said be at his office at quarter of nine; he would have a friend there of his.

Q. Did he tell you what he was going to do with his friend, or what his friend would do with you? A. Just what Socolow told me. He wouldn't ask me any questions.

Q. What did Wolf say, if anything? A. Then he said he was at his office at quarter of nine.

Q. Now, while I think of it, did you go out to Mr. Wolf's house that night to see him as a lawyer about any automobile case? A. No, sir.

Q. You went along for what reason? A. Because Walter wanted to see him.

Q. Because Walter wanted to see him? A. Walter asked him, I think, to be his attorney, or something. *Wolf said he wouldn't have nothing to do with the case.*

Q. Did Walter make any statement about where he was going, I mean in the presence of Mr. Wolf? A. He said he was supposed to go to Washington to meet Hart on H and 8th streets.

Q. Yes, go on and tell it? A. *As we were going out, Mr. Wolf told Socolow to give himself up, because if he tries to get out of town it will go that much harder for him.*

In response to a request from the Court, Keller a second time recited his story of what occurred at Mr. Wolf's home (R., 114, 115):

"A. A lady came out to the door, and me and Socolow was there, and Socolow said he wanted to see Mr. Wolf, and the lady, I think, asked him his name, something like that, so he said, 'That is all right,' and Mr. Wolf came out and he said, 'My God, boy, what are you doing here?' And he said, 'Who is this kid?'—no; he said, 'This is Hart, is it?' And Socolow said, 'No, his name is Kelly; wanted on automobile

theft. So, I think Mr. Wolf said, 'You want something to eat?' And we went in and ate, and Mr. Wolf went out in the yard. And then he came back in and we finished eating and *he takes us out on the porch*^{*} and Mr. Wolf said, 'A brutal thing,' or 'Brutal thing you did, Socolow.' And Socolow said, 'I will tell you about it, Mr. Wolf.' He said the man was coming down the street, and he kicked at me, and the man ran back up the street, and he shot the man and he kicked the man, and the man kicked him, and he took the money, and he said—Socolow told him he was broke and he needed the money. And Mr. Wolf said, 'Why didn't you come to me; I would have lent you a couple of hundred dollars.' And then the detective came, and a lady came in and said some detective was out on the porch, and so he went out—(No conspiracy broached before Hammersla came by anyone.)

(Judge Bond) Who went out?

(The Witness) Mr. Wolf.

(The Court) Just one?

(The Witness) *Yes;** and me and Socolow went on the porch, and Socolow said that is some head detective of some kind, so then Mr. Wolf—

(Judge Bond) Is that the only conversation occurred between you two and Mr. Wolf?

(The Witness) *When Mr. Wolf was away*—we were talking about instead of him and Socolow and Hart taking me to the box, put it on Allers, and when Mr. Wolf came in Socolow asked him how would this sound, or how would this do, and he said instead of me and Hart taking him to the box, say Allers was taking him to the box and frame him, Socolow—I heard Allers say he was framing Socolow. And then I told Mr. Wolf. *Mr. Wolf said, 'You are sure you*

* How reconcile two statements.

know where it is at?" And I told him yes; told him about what I would say that Frank Allers—instead of calling him Frank Allers say 'Chicago,' and another fellow came up on Broadway—I was standing on Broadway at Baltimore street, and this fellow came up and said, 'You want to make a couple of dollars?' And I said, 'Yes.' And he said, 'Come with me; take me to Broadway.' And gets on a car that goes east on Fayette street and takes me down to Highland avenue to this garage 88, and I get the box and tags and take it up to the pond and drop them in the pond, and he gives me twenty-five dollars. And then the telephone bell rang, and Mr. Wolf answered it, and he came back and he said, 'Let me hear that again.' And I told it to him again. *He said, 'He has got the nerve'* (pausing). And then Socolow said, 'I know a kid can talk pretty good by the name of "Shovel." And Mr. Wolf did not say anything, and a (1) couple of fellows came in (pausing). And then Mr. Wolf came back in, and he said, 'Come to my office at quarter of nine; I will have a friend there.' So Socolow said—

(Judge Bond) 'Have that friend there, or 'A friend there?'

(The Witness) Have a friend there (pausing). And Socolow—I believe it was Socolow—said, Mr. Wolf will have a friend there and he won't ask you any questions. And when we were walking out Mr. Wolf said, '*There is only one thing I can tell you to do is to give yourself up. If you go trying to get out of town it will go that much harder on you.*' And we got the cab and left Mr. Wolf's house.'

(1) He meant Siegel, Schwartz and Reamer who arrived before Hammersla left, and Mr. Wolf was with Hammersla or the other three till they left, then talked with Socolow briefly and for the only time in re. the Norris case.

COMMENT ON THE ABOVE.

Upon reading the above the question naturally arises: Can Keller's testimony be fairly construed, giving Mr. Wolf the benefit of the doubt or not, as amounting *on Mr. Wolf's part* to acquiescence in or participation in a conspiracy? He commented on Keller's nerve, denounced the brutality of the act, said he would have nothing to do with the case, and refused to represent Socolow. His parting words were—after all had been said and done—a repudiation of the invitation to join the conspirators to obstruct justice and advice to submit to justice—"*There is only one thing I can tell you to do is to give yourself up. If you go trying to get out of town it will go that much harder on you.*"

Keller in his many transparent lies and obvious devices that he unsuccessfully attempted to foist for four days on the police, to which may be added his oft-committed perjuries in the Socolow trial at Towson, always had one professed end in view—the aid of Socolow—the same end, of course, reinforced by considerations for his own safety, comfort and reward, to be served by implicating Mr. Wolf. His days and nights in the police station were filled by the manufacture and recitation of such clumsy falsehoods.

There was a distinguishable system or analogy as to all. Lacking originality to invent them wholly, he used the suggestions got from real acts and incidents, dislocated them from their true surroundings, mismated authors and their words, actors and their acts, and falsely ascribed their acts and utterances to others, embellishing and connecting the whole with picturesque details entirely false.

As one example, he told the story of hiding the box and the tags—but falsely substituted Allers for Socolow, the participant therein, and originated a lot of details, all untrue. He and Socolow “mumbled” and probably planned for the future together in Mr. Wolf’s dining-room during their long wait while Mr. Wolf was absent with his other visitors, when they were disappointed in Mr. Wolf and knew they were unwelcome. No one knows precisely what they planned, but doubtless Keller took fragments from that and other talks with Socolow, and fragments from the real and only talk Mr. Wolf had with them, and from such beginnings and the suggestions had therefrom, by adding, subtracting, swapping and transposing, after four days’ thought evolved the farcical story he projected to the edification and entire satisfaction of Mr. Leach. Keller was not exhausted, and had Mr. Leach not applauded the ostentatiously false statement and rewarded the author with the highest prize—liberty—Keller would doubtless have produced additional fabrications until the veriest glutton for scandal was sated.

Keller ascribed to Mr. Wolf a repudiation of Socolow, a high-minded attitude toward the brutality of Socolow’s crime, then an instantaneous moral slump accompanied by interest or curiosity to hear and hear again the plans devised while Mr. Wolf was out and the plotters alone, then a third instantaneous change when Mr. Wolf declined to touch the case and advised surrender.

EVERYONE ELSE CONTRADICTS KELLER’S STORY.

Mr. Wolf testified (R. 316):

“And as I got towards the doorway—this space here represents the doorway of the reception-room—

as I got about there—we had been talking coming through the hall—Socolow and Keller came towards me, and, as I saw them, I said—I could hardly catch my breath for a second—I said—pardon my language—What in the hell are you fellows doing here; how did you get here—or words to that effect. I don’t remember the exact language—I saw I was losing my head every second—my heart was thumping faster than it ever had in my life before—they were disheveled. And by that time I turned and there was my wife at my side, and she was shaking all over. I said to myself real quickly, Keep your head, don’t lose your head; keep cool; because I had made up my mind I was not going to represent them and was going to tell them—I *didn’t know how it would hit them*. The window was open and the door was open; the only door that was barred was the screen door in front and the screen door to the south. It only took seconds, but it seemed like minutes. I looked at them and said, I tell you fellows, it looks like you haven’t been washed; you fellows walk back and wash up. I said, pointing to the back, You fellows go back there and wash up. I took my wife by the arm and they went ahead of us; she was shaking all over. I said, “For God’s sake, keep cool; this is no time to get excited.” There is a doorway right back of these pillars (indicating that leads into this little hallway here (indicating from photographs) that goes in the kitchen—a very narrow hallway. That (indicating) is the reception room. That (indicating) is the big hallway as we went on through. So the men went in the kitchen. I said to the cook, Florence, I said, You don’t mind these fellows washing up, and giving them a little bite to eat. They were moving all the time from the kitchen to the back door. My wife said, They are the men, they are the men. I said, For God’s sake, honey, please be still;

don't get excited; don't get hysterical; please don't. I was trying to bolster her up, because she was terribly wrought up over it. I said, Keep cool. She kept repeating and repeating. I said, Don't get excited. We walked leisurely down to the kitchen door, down the back steps, and went to the gardener's house, and I went back there and back again trying to calm her. I went back in the kitchen. By this time, Socolow and Keller were on their feet.

I said, You fellows go ahead here. And as they went through I said to the colored man who was there that night, who had come back from his vacation that night—I said, George, now listen. Those are two desperate men, and if you hear the slightest kind of trouble, come in and give me a lift quick. He said, All right.

I went through the dining room. I had just about gotten in through the door—the bell had rung in the meantime—I had just about gotten in the dining-room, coming in the hallway from the kitchen, this way. I had gone in to tell these fellows what I was going to say to them. My sister-in-law said, Mr. Hammersla wants to see you.

I had just gotten over one fright in the back with my wife. I said, Now, here is where it starts; Harry is a well-known figure in the department, they must know his name. I said, Here is where they start. I figured they would be shooting at each other at once. It was only seconds; it seemed minutes. I said to myself, Maybe, thank God, they didn't get the name. I said, You fellows go back and sit down. I told them to go back here (indicating) in this dining-room. They went back there and sat down, and I went out to see Hammersla. As he said, I was very ill at ease. I was. I was terribly worked up over it, and nervous. I sat in the swing talking to Hammersla. As I was talking to him, the phone would ring and my sister-in-law or some member of the family would

say, 'Telephone.' I would then get up from the swing. I think I told you the swing is here. Here (indicating) is the swing on the porch, and I would walk from there—have you the library there, please, sir? I would walk over here—here (indicating) is where the telephone was—to answer the phone. The phone rang a great many times—just exactly the number, I don't know—or the character of the same. There were a great many. I would go and answer the phone and come out again and talk to Hammersla. And I sat there for at least half an hour or so, talking with him, hoping he would go any minute. And as I was sitting there talking with him, I said to him—I said, Harry—three men came along in an automobile—I said, Harry, you will have to excuse me; these gentlemen want to see me about a little business. He said, All right, Harry, I will see you again. And he got in his Ford and said, Good night. I said, Good night, Harry. And out he went.

I said, You fellows come on in here, I took them in the hall and we stood in the hall there. Well, anyhow, we stood in the hall over here in the neighborhood of the clock, they were standing there, which would be the north side of the building. We stood there talking; they were telling me that they wanted to get Hurwitz out—that he had never been in trouble before—his wife didn't know it—they didn't want it to get to her. At first one would say, Why don't you get him out? And I said I cannot very well tonight.

Q. About how long were they at your house? A. As a matter of fact, those men were there fully fifteen minutes. They were at least that. *And after they had gone, as I say, I said to the taxicab driver, Those fellows will be out in a minute—meaning Socolow and the other fellow. I went back and I said, Come here.*

Q. Where were they? A. In the big dining-room. And I stood right here, in this doorway, facing the dining-room. I said, You fellows come here. I said, Let me tell you something; I am not going to represent a damn one of you, and I went on to tell them—and Socolow would break in and say, I am innocent. I said, I don't care whether you are innocent or not. I said, If you are innocent, walk in and surrender like a man. He said, They won't give me a fair trial; the papers say this and that. I said, You will have nothing to gain by walking away; there is nothing to do but go in and surrender like a man. He said, Let me tell you my story. I said, I don't want to hear a damn thing about it; I won't represent a damn one of you. Every time I tried to talk he would break in and try to explain and said, Mr. Wolf, I am innocent. I said, I don't want to hear a damn thing about it. I said, The thing is not whether or not you are innocent, but the thing to do is to walk in and surrender; you will gain nothing by running away. After some further exchange of words, they walked out the dining-room and started through the hallway that leads out to the porte-cochere. As they started out, they stopped for a moment, and this other fellow, who turned out to be Keller, turned to me and said, Mr. Wolf, will you help me out? I said, What is the matter with you? He said, I am charged with stealing an automobile. I said, Come to my office tomorrow morning at nine o'clock and I will see what I can do to help you out. They went out."

Mrs. Wolf, wife of Mr. Wolf, who was within easy hearing, testified (R. 346):

"When we had finished our dinner, the three ladies preceded me through the dining-room door and they went into the library. Mr. Wolf and I followed, he going towards the reception-room and I to-

wards the library to the left and as he got to the door of the reception room, my back was turned, but I suppose that he had gotten to the door he said, What in the hell are you doing here or something of that sort. Very much surprised. It was so unusual for him to greet people in this fashion, I turned instinctively and went to the reception-room door. I saw these two awful looking boys, or men or brutes, and I held his arm. He patted my hand and said to the men, You go down to the kitchen. You go down there and wash up. They went through the hall and turned into the kitchen and went into the kitchen, Mr. Wolf and I followed them. When we got into the kitchen, he said, Florence, let these men wash up and give them a bite to eat, and then we went out of the kitchen door to the yard.

We walked slowly towards the gardener's house, he telling me to keep quiet and cool and not to get hysterical and not to get excited. I left him there and went around to the porte-cochere and called the chauffeur to bring the machine to take Mrs. Goodman home. I went up the steps of the porte-cochere, the north porch and called up to Mrs. Goodman that the car was ready for her and she left immediately, after which I went into the library and rejoined my sister and my mother.

I had just about gotten in there when the bell rang again and my sister went out and opened the door. I heard her come back and go to the dining-room and say, Mr. Hammersla is here, and I knew who Mr. Hammersla was and I kept quiet. She came back into the room and we stayed there and heard Harry go across the hall out on to the porch and heard the door close after he was out on the porch. The telephone bell rang several times while he was out there and we called him, my sister called him in, I think. I think my sister each time doing it. He would then come in and answer the 'phone, in the library where we were.

Then I heard some voices in the hall, but I could not say who was there, but I heard some men out there talking attempting to get somebody out on bail, evidently, somebody that had been arrested. That is nothing unusual, but he said that he could not do anything on that night. Well, they said that they had their bondsmen with them and they were sure that Harry could do it. They then left and Harry went towards the dining-room door and I heard him say, Come here, evidently addressing somebody in the dining-room.

I heard voices speaking and one of them saying, I am innocent, Mr. Wolf, won't you be my lawyer? Won't you let me tell my story? *Harry said, No, I don't want to have anything to do with it. I don't want to take your case and I don't want to hear your story.* They interrupted him each time that he started to talk and he said to them, Guilty or innocent, the only thing for you to do is to go down and give yourselves up. And they said, Well, we are innocent. He said it doesn't do you any good to run away. If you run away they will catch you sooner or later so just go on down and give yourself up. Well, we won't get a fair trial? He said, Now you do as I tell and that is all. And they started out towards the porte-cochere and at the door I heard a voice say, Will you take my case? Mr. Wolf said, What kind of a case is yours? He said, Well, I am accused of stealing an automobile. He said, Well, if that is the case come down to the office tomorrow morning at nine o'clock and then they left. He then came back to the library where we were sitting and he sat with us."

Miss Clara Cohen, within easy hearing, testified that (R. 353):

"Dinner was served and while we were at the table the bell rang. We were short of help, so I said I

would go to the door. I went to the side door and there were two very disreputable looking men standing there. They asked if Lawyer Wolf was at home, and I said yes, and the name. They said they did not wish to give any name, because Mr. Wolf would not know them. *So then I asked them whether they preferred sitting indoors or outside, and they preferred sitting indoors, so I immediately showed them into the reception-room and turned on the light.* I went into the dining-room and I was very much excited, because we were not used to seeing such wretched looking people, and I said, Oh, there are two of the worst looking men to see you, and Mr. Wolf said, keep calm about it, sit down. We sat down and finished our meal in leisurely fashion, as we always do, talking about things that happened during the day. When dinner was over, Mrs. Goodman, mother and myself started out of the door that leads into the hall, and on our way to the library we were in front, Mr. and Mrs. Wolf in back of us, and we were just about in the library when we heard Mr. Wolf say—shall I use his language?

(Mr. Dennis) You will have to, I am sorry to say.

(Witness) What in the hell are you doing here; how did you get here? And then he said you better go out—

Q. Let me interrupt you just a moment. Where were the men then? A. In the reception-room, where I had shown them when they came.

Q. After he said what in the hell are you doing here, what happened? A. Then he said you better go out back and wash up. We continued sitting in the library, sewing and talking, and they continued to the back of the house, and later in the evening Mrs. Wolf came to the side porch and she called Mrs. Goodman to say that the car was ready to take her home and Mrs. Goodman said good night and left.

After that the door bell rang again and I went to the door. I asked who it was; the name, Mr. Hammersla. I asked him whether he preferred sitting indoors or outside, and he preferred outside, so I left him sitting in the hammock.

I went into the house and found Mr. Wolf just coming out of the door that leads from, well, it is just outside the breakfast room, leads between the kitchen and dining-room, and these two men were standing just within that door on the dining-room side. He was coming towards them, and I said Mr. Hammersla to see you, and he said to these men, Take a seat over there, motioning to the back of the dining-room, and Mr. Wolf went out on the porch and spoke to Mr. Hammersla.

We continued sitting in the library reading, or, rather, sewing and talking, and the telephone rang several times. Each time the telephone rang I went to the side porch and called 'telephone,' and that was the signal for Mr. Wolf to come into the house to answer the telephone, and he came into the library where we were sitting to answer it each time. Then after we heard voices in the hall again, Mr. Wolf's voice among them. Some people had come out there; they were in trouble and wanted to get some man out on bail and were trying to persuade Mr. Wolf to have that man released that night. Of course, he kept saying he could not do it, but they were persistent in trying to get him to do it, naturally.

Then Mr. Wolf came into the house again; he walked over to the dining-room and I heard a voice say, Now, Mr. Wolf, I want you to hear my story. He said, I don't want to hear anything about it. He said, Well, I didn't do this thing, Mr. Wolf; I want you to listen to me, want you to hear what I have to say, and Mr. Wolf kept saying, No, I don't want to have anything to do with it; you are guilty or you are innocent; there is only one thing for you to do and

that is give yourself up, and they were just about going out the side hall when I heard another voice say, *Well, will you take my case; I am in a little trouble; have been accused of stealing an automobile; so Mr. Wolf said, Well, if you want to see me about that come down to the office tomorrow morning at nine o'clock.*

Q. (Mr. Dennis) Now, that is the time they left?
A. Yes.

Mrs. Rose H. Goodman testified (R. 365):

"While we were at dinner the bell rang and Miss Cohen volunteered to go to the door, and she came back and said, Harry, two terrible looking men are at the door and want to see you, so he said. Well, just don't bother, sit quietly, and we continued with our meal. After the meal was served and we finished our meal we still sat talking, discussing all that we did at Sandy Beach and about the baby, how he enjoyed himself, and we did not—we were not in any apparent hurry to leave the table.

Q. Mr. Wolf there all the time? A. Yes, sir; he did not leave the table while I was there. And after dinner, after we got into the hall and Mr. and Mrs. Wolf followed, and I was going into the library door, in the library, and I heard Mr. Wolf approach some people and say, What in hell are you doing here, and damn it, how did you get there; and then I felt immediately that there was something wrong, but I went in and quietly sat down and I was seated a very little while when I heard Mrs. Wolf call to me that the car was ready, and I left.

Q. Where was Mrs. Wolf at the time that Mr. Wolf had made this exclamation that you describe?

A. I did not see Mrs. Wolf. I was in the library.

Q. You walked on in the library and sat down?

A. I was in the library.

Q. She did not come in the library with you? A. I did not see Mrs. Wolf any more until I heard her voice and then I went out to the car."

Mrs. Fredericka Cohen testified (R. 369):

"The door bell rang and my daughter Clara went to the door, and she came back and she seemed terribly excited and she said, Oh, two of the worst looking characters I have ever seen to see you, Harry, and he said, Well, don't get too excited, it is all right; sit down and we will finish our dinner, and I think he said, Did you take them into the room or show them to a room, and she said, Yes, they were in the reception room. We continued with our dinner and talking about the afternoon, what we had done and how we had enjoyed ourselves, and we were not in any hurry at all to leave the table, and when we were through dinner I think I was the first one to leave the table and go out in the hall towards the reception-room or the library, the rest of the family following me, and I had just about gotten in the library when I heard Mr. Wolf in very loud tones say—will I go on just the same? Well, where in hell did you come from? How did you get here? And it was so unusual. I had often known Mr. Wolf to have callers, for I spend a great deal of time there, and I had never heard him talk to any clients in that tone. I immediately turned and was surprised to see Mrs. Wolf had joined him, at the door there, talk to these people, whom I did not see, and then he said, Go in and wash up, and Mr. and Mrs. Wolf followed them. They went back in the hall towards the kitchen. They were ahead and Mr. and Mrs. Wolf following them.

Q. Now, did anyone else come to Mr. Wolf's house that evening that you know of? A. Yes, sir. The bell rang and my daughter went to the door, and she came back and said, Mr. Hammersla.

Q. Now, how long was that after Mr. Wolf, you heard him say go back and wash up, and he and his wife walked towards the kitchen door? A. Well, it might have been ten or fifteen minutes, because in the meantime Mrs. Goodman had been called, that the car was ready, and she went home.

Q. But you are just estimating it? Now, then, Mr. Hammersla was announced and do you know whether Mr. Wolf went out to see him? A. I understood he did, that he went out on the porch. I was in the library, I did not see any of the movements at all, I could only hear the voices.

Q. Were you engaged in any work of any kind? A. We all thought we were working, we had a little work in our hands and thought we were working, but we were all terribly excited.

Q. Did Mr. Wolf seem to be excited? A. Just as much as we were, which was very unusual for him, because in all the time that I have been at the house and the many visitors that he has had, we had scarcely ever heard one word that he said to his clients.

Q. Now, then, after Mr. Hammersla was there—arrived—do you know whether later on any other people came to that home? A. Yes, sir: there were other voices in the hall, there were some men there and they wanted him to go on, to furnish bail or to make arrangements to furnish bail, and he said it was very late and he could not do anything, and they persisted and said they knew it had been done other times and wanted it done, and finally persuaded he couldn't do anything that night, and to come to the office in the morning, and see what he could do, and they left.

Q. Was there any difficulty in hearing the talk of Mr. Wolf that night? A. Not a particle.

Q. Did you hear him come to the dining-room door and say anything to these men who were there? A. I heard him say, as soon as he seemed to have gone with these men and shown them the door, and he came back, I heard voices then say, now, Mr. Wolf, I want to tell you my story, and Mr. Wolf said, I don't want to hear your story. Well, I am innocent and I want you to help me. Innocent or guilty—now this is as near as I can remember: they may have said oftener or perhaps added a little—but innocent or guilty, there is only one thing for you to do and that is to surrender, go right down town and give yourselves up, and they persisted they were innocent, he was innocent and he wanted to tell his story; and Mr. Wolf said, No, I will have nothing to do with the cases.

Q. Was that talk loud enough to be heard by you and the other ladies in the library? A. Positively, very loud, anyone might have heard it.

Q. Would it have been difficult for anybody on the porch to have heard it? A. Well, I don't think it would be.

Q. However, you heard it? A. I heard it.

Q. After he said innocent or guilty, there is only one thing to do, give yourself up, what did they do?

A. Then I heard the footsteps, and another voice said, Well, will you take—

Q. Now, which way did they appear to be going?

A. They were going out the side door to the porch. Well, will you take my case? What is your case? I am accused of stealing an automobile. Well, you come to my office tomorrow morning at 9 o'clock."

George Taylor testified that (R. 386):

"After I got home I was sitting down talking to my wife about what a time I had on my vacation. I was sitting there a while and in a few minutes the

door opened, the door coming out into a little hall, and out came two hard, rough-looking men, shirts open, they looked dirty, and Mr. and Mrs. Wolf behind them. Mr. Wolf came on out and he said, 'Florence, you do not mind these men washing up a little?' And Florence said, 'No.' Florence told them to go to the sink and wash up, and before Mr. Wolf went out of the door he said, 'Give them a bite to eat, too, Florence,' and out of the door he and Mrs. Wolf went. They were out there a short while and Mr. Wolf came back and when he came back these two men were standing up in the kitchen and Mr. Wolf said, 'In that way, fellows,' and those fellows went into a little hall that leads into the dining-room, and after they got in the hall and had closed the door Mr. Wolf beckoned to me to come to him. I went to Mr. Wolf and Mr. Wolf said, 'George, these are two bad, desperate men; you sit in that chair there by that door and if you hear any disturbance or any shuffling you step in to give me a lift.'

Q. During that time could you hear what was going on in the dining-room? A. Well, after Mr. Wolf told me to sit in the chair by the dining-room door, and he went on through the door, it was a lady said to him that Mr. Hammersla was there to see him, and Mr. Wolf said to these fellows, he said, 'You fellows sit over there,' and Mr. Wolf went on out talking to Mr. Hammersla, I suppose.

Q. During the time did you hear these men that you speak of, these rough-looking men; could you hear them talking to each other? A. Yes, I did, but I could not understand anything they said. They were mumbling and talking very low.

Q. Now, then, did you hear—you said you sat there about an hour before Mr. Wolf came back? A. Why, he didn't come back there. He came in probably eight or nine times to answer the telephone, he went in the library.

Q. Now, did you hear any talk out in the hall? Did anybody else come to see Mr. Wolf? A. Well, after Mr. Wolf, the last time he answered the phone and he went out, the next time I heard Mr. Wolf he was talking to two or three men—it sounded that way from the different voices—and they were in there, I suppose, about fifteen minutes talking about some bootlegging case or something, and I heard Mr. Wolf say he was very sorry he could not do anything for them that night, but for them to come down to his office in the morning at nine o'clock and he would attend to it; he would take care of them. That is what he said. And they went away.

Q. After they went away did Mr. Wolf say anything to these men that were sitting there? A. Why, yes, sir; the next time I heard Mr. Wolf again he said, 'Look here, you fellows, come here'—

Q. Where was he, out toward the hall, that entrance? A. It seemed like to me he was in the hall, in the big hall; it sounded like it to me. So he said, 'You fellows come here.' Now, he said, I want to tell you I am not going to defend a damn one of you.' Excuse the expression. He said, 'I am not going to defend a damn one of you.' He said, 'It is a damn outrage and it is a shame,' and one of them kept on talking and saying, 'Mr. Wolf, I am innocent, I am innocent.' Mr. Wolf said, 'Innocent or no innocent, I don't give a damn. If you are innocent go down and give yourself up. It is nothing in running away. If you are guilty go down and give yourself up. If you are not guilty go down and give yourself up, because if you run away they will get you sooner or later.' Then whilst Mr. Wolf was saying that one of them kept on talking and saying, 'I want you to take my case, I am innocent, I am innocent, the papers—they won't give me a fair trial in Baltimore.' Mr. Wolf said, 'Yes, they will; they will give you as fair a trial in Baltimore as they will anywhere else.' Then

I heard a scuffling like they were going toward the door, and Mr. Wolf said, I am damn sorry, but I cannot do anything for you.' Whilst they were going out it seemed like to me they were going toward the big hall to go out, I heard one of them say something to Mr. Wolf, but I did not understand what it was, but I did hear Mr. Wolf say, 'Well, you come down to my office at nine o'clock in the morning and I will see about it.'

Q. Did they go out then? A. Yes; I never heard no more of it."

Bossom, State's witness, contradicts Keller at every turn (R. 176, 177):

"Q. Well, then, your two fares rang the doorbell and they were admitted? A. Yes; that is right.

Q. Now, did you have your lights on the automobile lit? A. No; we don't use headlights on the automobiles, but when they went in the interior of the house was not lighted up, but it was lighted after they got in there.

Q. Were the blinds up? A. Yes.

Q. Everything open? Windows open? A. I think they were open; yes, sir.

Q. Now, it was no trouble for anybody from the outside to see in; was it? A. Not if they wanted to look in.

Q. Not if they wanted to look in? A. No, sir.

Q. Now, you say that they had been there for about ten or fifteen minutes sitting there waiting, when Mr. Wolf came to meet them? A. Yes, sir.

Q. And he then took them to the back of the house? A. Yes, sir.

Q. And that is the last that you saw of the boys until they re-entered the cab and left? A. That's right.

Q. Now, then, how long after that was it that Mr. Hammersla got there in his little Ford? I think you told us, but let us make sure of it? A. I don't know how long, but it was some time.

Q. Well, how long was it after Mr. Hammersla arrived that Mr. Wolf went out on the porch to meet him? A. From the time that Mr. Hammersla arrived, I don't guess that it was over a minute.

Q. He went out immediately and saw Hammersla? A. Yes.

Q. And I think that you say that they sat in the swing on the porch and in your view all of the time? A. Yes, sir. That is right.

Q. Did Mr. Wolf go in the house at any time and leave Hammersla there at any time while you were waiting there? A. I don't think so.

Q. Did he have any phone calls that you know of? A. Yes. I heard at first, when they first went in there—Socolow and Keller—I heard the phone ringing, and I heard him say, Hello, and that was all. I don't know whether he went in a booth or not.

Q. And that is when they first went in there? A. Yes, sir.

Q. And he sat there talking with Hammersla continuously (1) until the three men arrived in the big car? A. Yes.

Q. How long did those men stay there that came in that big car? A. They stayed possibly ten or fifteen minutes and they went inside.

Q. Did they have a chauffeur? A. No, sir; I didn't notice that. It was three of them, I think, and they went in the house with Mr. Wolf.

Q. Yes. Now, do you know at what time they left Mr. Wolf's? A. The three men?

(1) Siegel, Schwartz and Reamer.

Q. Yes. A. Indeed, I don't. I couldn't tell you that.

Q. And almost immediately after they left was when Mr. Wolf came out to you and told you that the two young men would be out there shortly? A. Yes.

Q. And, as a matter of fact, they did come out within a few minutes after these other three men had left? A. Yes, sir."

After Socolow and Keller left Mr. Wolf called up Captain Leverton, an old friend, and the man responsible in chief for the apprehension and confession of Allers (having been put in touch through Mr. Wolf's advice to McKee), and asked him to call at his, Mr. Wolf's, office next morning, that he might have something important.

Keller appeared at Mr. Wolf's office, there admitted to Mr. Wolf he knew where the metal cash box stolen from Mr. Norris was, said he wanted to tell, and was then introduced by Mr. Wolf to Captain Leverton, with the explanation that Keller was wanted for stealing an automobile, and could give Captain Leverton information about the stolen box, etc. Leverton took Keller in charge, found the box and auto tags, etc., etc. Keller told the police very many untruths, led them astray time and again, concocted many more or less plausible stories, and finally after four days constant badgering by the police and contriving for his own relief made an alleged confession wherein he sought to placate his oppressors at the sacrifice of Mr. Wolf. He succeeded.

AT THE BEGINNING IT IS PERHAPS WELL TO UNDERSTAND
WHO KELLER IS.

John Keller is aged seventeen, is the son of respectable parents, and had his skull fractured when three years old (R. 290), has never since "been accountable for what he did" (Rose Keller, R. 291-292), when twelve years of age he was first arrested (February 17, 1917), charge larceny, dismissed, and on charge of disorderly conduct, probation, one month, and has been arrested for various charges, to wit (R. 163-164-165-166, &c.):

(February 17th, 1917. Eastern District).

Charge— feloniously entering store 2001 Bank Street, stealing seventy-five cents and twenty-five cents' worth of pies. Larceny charge dismissed. Found guilty of disorderly conduct. Probation for one month under care of Mr. Mueller. Officers in case: Sergeant Nicholas Gatch and Officer Joseph Jeffres, Eastern District (R. 148).

(April 9th, 1917. Juvenile Court).

Charge—Minor without proper care. Sent to St. Mary's Industrial School pending further hearing July 9, 1917. Dismissed July 9th, 1917. Witnesses: Mother, Mrs. Rose Keller, and Father Wheeler.

(October 27th, 1917. Eastern District).

Charge—Disorderly conduct on public street. Sent to St. Mary's Industrial School pending further hearing April 1st, 1918. Dismissed March 20th, 1918. Officer in case: Harman, Eastern District (R. 148).

(November 6th, 1918. Eastern District).

Charge—Larceny of one pair rubber boots. Placed in care of Probation Officer William Mueller for three months. Further action suspended. Officers in case: Sergeant Granville Bozman and Officer George Fritsch. Witness: Mary Sussman, 1921 East Pratt Street.

(November 6th, 1918. Eastern District).

Charge—Larceny of one wrist watch, \$15.00; one child's bracelet, \$4.00. Dismissed. Officers in case: Sergeant Granville Bozman and Officer George Fritsch. Witness: Kate Feldstein, 1921 East Pratt Street (R. 149).

(November 9th, 1918. Eastern District).

Charge—Larceny of \$10 U. S. currency, from Mary Perel, November 6th, 1918. Sent to St. Mary's Industrial School pending further hearing December 20th, 1918. Released December 22nd, 1918. Officers in case: Officer William F. Griese, Central District. Witness: Mary Perel, 209 Harrison Street (R. 149).

(February 5th, 1919. Eastern District).

Charge—Disorderly conduct on public street; fined \$2 and costs. Fine of \$3.45 paid. Officers in case: Sergeant John H. Holzer and Officer Charles Grauling, Eastern District. Witness: Mrs. Rosie Potkovitz, 1115 East Lombard Street.

(February 13th, 1922).

Charge—Incorrigible, charge preferred by Mrs. Rose Keller, mother.

He admitted that he had worked at ten different places (R. 121, &c.), that he had wilfully deceived the police for four days to help Hart and Socolow, telling lie after lie (R. 144), until finally after being subjected to four days' confinement and an examination by Mr. Leach and other State officials for five hours (R. 113, 116), he made a statement which suited them. They pressed him no further.

He testified at the trial of Socolow at Towson, and admitted five times (R. 126, 128, 140, 141, 142, 150, 152, 154, 155, 157, 170, 171) in the Wolf trial that he had many times committed perjury in the case of the State vs. Socolow, all with a view to helping Socolow (R. 143, 171, 171), a purpose always in mind; *that he withheld testimony of an alleged confession of Socolow, when testifying in the case of State vs. Socolow at Towson by direction of Mr. Leach* (R. 141, 141, 143).

He further admitted that the clothes he wore in the Wolf case were given him by Wiggles Smith (R. 147), one of the murderers, that he had worked but nine days in the last year, that he ran away from home last March for no good reason—simply because he felt like it, that he broke into a house and stole a still (for the same reason), because he felt like it (R. 144).

He introduced himself to Mr. Wolf as being wanted on the charge of stealing an automobile, and Mr. Wolf frankly told Captain Leverton that he was a thief, that is to say, he was wanted for stealing an automobile—sufficient notice to a cautious policeman, we would think.

It further appears on Keller's own statement that he had for months mingled freely with the underworld, shot

craps, and been supported by criminals, and that he had done and performed acts for Socolow and Hart which would make him liable as an accessory after the fact to their crime of murder (R. 158, &c.).

It further appeared that his mother, when he was taken into custody, knowing his weakness and degenerate tendencies, went to State's Attorney's office to warn Mr. Leach (without effect) that her son was untrustworthy; and that no friend, relative or lawyer representing him (R. 297) was permitted to talk to him out of the presence of the police (R. 123, 124, 125).

It further appears that he testified against Mr. Wolf after having been over sixty days in the custody of the police with the promise of a job (R. 123, 125, 145), that his story was written up and (R. 135) he had gone over it time and again with Mr. Leach (R. 122) and with Mr. Poe, once for two hours (R. 122), and that before the Smith-Carey trial he had been promised a job by Mr. Leach and a parole, and on Sunday night—the Wolf trial beginning Monday—he had again been promised a job and a parole by Mr. Leach, the State's Attorney (R. 146, 147, 158, &c.).

Keller's mother, father, brother and sister and uncle took the stand and testified his reputation was bad, that he was not to be believed on oath (R. 293, 295, 298, 300), Harry Bauer (R. 296), a neighbor; W. H. Mattson (R. 299), a neighbor; M. J. Mattson (R. 299), a neighbor; W. J. Glenn (R. 301), a neighbor; Martin Glenn (R. 302), a neighbor; Dr. George Heller (R. 303), family doctor to the Kellers; Charles H. Buck (R. 305), a neighbor, all testified that Keller's reputation was bad, most of them swore they would not believe him on oath.

William Mueller (R. 305), Chief Probation Officer of the Supreme Bench, formerly probation officer of the Juvenile Court, testified he had as a part of his duty—having Keller under probation in his charge—investigated Keller's character, that it was bad, that he would not believe Keller on oath (R. 307). He was not permitted to produce his official records by way of further proof of Keller's criminal acts.

IN THIS CASE—

(a) Keller testified to conspiracy talked over with Mr. Wolf after Hammersla left—the sole basis of any charge against Mr. Wolf.

Directly refuted by Mr. Wolf, Mrs. Wolf, Miss Cohen, Mrs. Cohen, George the butler, Socolow, all listening and being all the persons present.

(b) Keller testified he and Socolow waited for Mr. Wolf upon arrival but a couple of seconds, later enlarged.

Directly refuted by Mr. Wolf, Mrs. Wolf, Miss Cohen, Mrs. Cohen, Mrs. Goodman. (See Mr. Bossom's testimony, R. 172.)

(c) Keller testified he and Socolow talked with Mr. Wolf "on porch" thirty minutes before Mr. Hammersla arrived.

Directly refuted by Mr. Wolf, Miss Cohen, who met Mr. Hammersla at the door, Taylor and Socolow and Bossom (R., 173).

(d) Keller testified Mr. Wolf returned to him and Socolow and sat with them *after* Hammersla left and

before other three visitors arrived, and he then went over the details of the plot *twice*. Mr. Wolf answering the phone between times.

Directly refuted by Hammersla and three men, i. e., Siegel, Schwartz and Reamer, and by Mr. Wolf and Bossom, who testified visits overlapped and/or that Mr. Wolf was continuously with one or other, or both.

(e) Keller testified Socolow and Mr. Wolf talked together altogether for an hour.

Directly refuted by testimony of Mrs. Wolf, Mrs. Cohen, Miss Cohen, Mr. Wolf, George Taylor—and was a physical impossibility in view of the time spent on the premises less the time Mr. Wolf spent with Hammersla and other three visitors, who show conclusively that Mr. Wolf during the whole evening was with Socolow and Keller but three or four minutes. (See testimony of Bossom (R., 171) and Hammersla (R., 179).

(f) Keller testified that Mr. Wolf's visitors on the night of Wednesday, August 23, stayed "a couple of minutes."

Directly refuted by testimony of Mr. Wolf and his family, and also by testimony of Bossom and of the visitors themselves, Siegel, Schwartz and Reamer.

(g) Keller testified that Mr. Wolf told Captain Leverton in the big reception room of Mr. Wolf's office when he left Mr. Wolf's office *Thursday morning*, August 24, with Keller, "Don't ask the kid any questions."

Refuted by testimony of Captain Leverton, a State witness, Mr. Wolf, Mr. Meyler and Mr. Stevenson.

(h) Keller testified he had a talk with Mr. Wolf just before leaving Mr. Wolf's office for detective headquarters Thursday, August 24, with Captain Leverton, Keller's last visit to the office before his incarceration.

"Q. What conversation or what statements, if any, were made by you to Mr. Wolf at that time, and what was said by Mr. Wolf to you as you were going out with Leverton to go over to the Court House? A. He asked me if I had any money, and I told him no. He said here is a dollar to get a place to sleep. *What are you going to say, Allers found the tags? Either one, he said, or are you going to say Allers framed Socolow. I don't know which he said.*

Q. What did you say, John? A. I told him yes.

Q. What, if anything, was said about whether or not you might be held by the police? A. I told him, suppose they hold me? And he said to call my house, call me up at my house and I will come down and get you out."

No such conversation ever occurred.

Captain Leverton, and Messrs. Sherwood and Tompkins, State's witnesses, were then and there present.

Leverton and Tompkins, State's witnesses, testified (R. 211) that at time fixed by Keller as when the foregoing alleged conversation took place Keller was sitting between Sherwood and Tompkins, newspaper reporters, in Mr. Wolf's outer office. Leverton (R. 211) testified he was there to take Keller to police headquarters, and—

"Q. Well, the boy was in your presence all the time, wasn't he? A. Yes, sir.

Q. Did Mr. Wolf at any time in your presence on that occasion ask this boy if he was going to frame Allers? A. No, No, sir; No, sir.

Q. There was never any such conversation; is that what I am to understand? A. Yes, sir," etc. (R. 212).

Sherwood, State's witness (R. 235), who was present sitting beside Keller (R. 227) in Mr. Wolf's office when Keller said the foregoing conversation between himself and Mr. Wolf took place, testified (R. 236):

"Q. Did Mr. Wolf have any conversation with the boy at all in your presence before the boy left? A. I do not remember any; no, sir."

Tompkins, State witness and newspaper reporter, sat beside Keller in Mr. Wolf's office, interviewed Keller, was present before and at the time Keller was taken from Mr. Wolf's to police headquarters by Leverton (the time when Keller says the conversation about framing Allers, etc., took place), and Mr. Tompkins testified (R. 246, 247):

"Q. While you were there, did Mr. Wolf have any private conversation at all with John Keller? A. None that I know of.

Q. And you were there all the time and would have known it if he had had? A. I was there, as I said, a little while ago, for about fifteen minutes.

Q. Well, during the fifteen minutes you were there, and it was the fifteen minutes immediately preceding the taking of Keller from Mr. Wolf's office, did Mr. Wolf have any conversation with him which you did not overhear? A. No, sir.

Q. Was there any conversation between Mr. Wolf and Keller in your hearing that Keller testified to? He testified that Wolf asked him if he was going to frame Allers? A. There was no such conversation as that in my hearing, sir."

(i) Keller testified twice or more that the alleged conspiracy was agreed to by Mr. Wolf *after Hammersla* left and *before* the other visitors arrived, obviously overlooking the clear fact *that no interval occurred*, as Hammersla, Bossom and the three visitors and Mr. Wolf—six witnesses, five disinterested—testified. *Such is the State's indispensable witness!*

ARGUMENT—PART III.

GENERAL TREATMENT OF ERRORS.

The distinction between a witness who has been convicted of perjury and a witness who, like Keller, has time and again acknowledged that he had time and again been guilty of perjury, is scarcely distinguishable. Had Keller been convicted of any one of his many perjuries, he would not have been eligible to testify as a witness by statute. Art 35, Sec. 1, C. P. G. L.

While we realize this Court cannot review the propriety of the verdict and judgment, for the credit of counsel in the case, we trust it is proper to demonstrate to this Court the complete innocence of Mr. Wolf, and that counsel are engaged in an effort to effect substantial justice to the innocent, and not to shield guilt behind any legal defense.

At the beginning of the trial Keller was granted a severance (apparently he never entered any plea), and at the conclusion granted a parole and judgment suspended.

INJUSTICE TO MR. WOLF IS CLEAR.

The action of the distinguished Judges who accepted in toto as true all of Keller's testimony, in spite of the ad-

monitions of this Honorable Court in the late case of *Lanasa vs. State*, 109 Md. 602, and *Leury vs. State*, 116 Md. 294, against convicting upon the uncorroborated evidence of a co-conspirator (and in this case a confessed perjurer, a degenerate and criminal, furnished with every inducement by way of liberty and reward the State could give, under the constant and unyielding control of the police, though contradicted at every essential point by competent (and often disinterested State's) witnesses, and nowhere supported as to *any point in dispute*, essential or otherwise, by any witness) would be absolutely inexplicable in normal times.

In the *Leury* case, this Honorable Court expressed in vivid language a good reason for the rule referred to:

“Any one who has had experience at *nisi prius* trials knows how captivating is the story of one relating the circumstances connected with some mysterious crime. When such an one has a motive the prospect of freedom, a milder sentence or the favor of the officers who have him in charge, an innocent one may undoubtedly be made to suffer, if great caution is not used” (at p. 293).

Keller had all that.

MR. WOLF TRIED UNDER ABNORMAL CONDITIONS.

The conditions surrounding the trial of Mr. Wolf were decidedly abnormal. Public sentiment was naturally outraged at the robbery and the wanton murder of Mr. Norris; the newspapers fanned the flames of hate toward anyone connected with, or supposed to be, however remotely, suspected of connection with the murders, legitimately or no, either before or after the crime,

by editorials, garish headlines, extravagantly embellished articles. Large rewards were offered for the arrest of the murderers. Popular excitement overwhelmed the community.

The Executive and Grievance Committees of the Bar Association, by an incendiary and vicious exparte petition, in most part incorrect, filed under the lashing of the press, precipitately passed by the said committees, without an invitation to Mr. Wolf to explain or a chance to be heard, and never considered by the membership of the Association, but given the widest publicity, supplemented by published interviews with ready talkers, asked Mr. Wolf's disbarment, and added to the overwhelming wave of mistaken condemnation of him—unheard—and he could not talk or explain without violating a professional confidence.

Mr. Wolf could not have his case tried as this Honorable Court said in *Fountain vs. State of Maryland*, 135 Md. 76, he was entitled to be tried: "To have the verdict represent solely the effect of the evidence and not the influence of popular sentiment."

That the verdict was influenced by popular sentiment is clear. The State's Attorney publicly announced after the verdict in big letters:

A STATEMENT BY THE STATE'S ATTORNEY.
STATE'S ATTORNEY ROBERT F. LEACH,
JR., WHO BUILT UP AND PROSECUTED THE
CASE AGAINST HARRY B. WOLF, MADE THIS
STATEMENT YESTERDAY:

"IN SECURING THIS GREAT STEP TOWARD THE RESTORATION OF DECENT CON-

DITIONS IN THE ADMINISTRATION OF LAW AND ORDER, THE SERVICE OF THE AMERICAN AND THE NEWS SHOULD NOT BE LOST SIGHT OF

"VERY EARLY IN THE DEVELOPMENT WHICH LED TO THE RESULT JUST ATTAINED THE MANAGEMENT OF THOSE TWO PAPERS SENSED NOT ONLY THE IMPORTANCE OF THE SITUATION TO THE ENTIRE PEOPLE, BUT WHAT IS MORE IMPORTANT, THEY ALSO SENSED THE DIFFICULTY OF BRINGING TO LIGHT ALL THE FACTS AND CIRCUMSTANCES INVOLVED.

"WITHOUT PUBLICITY IT IS PROBABLY A FACT THAT A CONVICTION IN THIS CASE NEVER WOULD HAVE BEEN SECURED.

"AS THE PEOPLE'S SERVANT I KNOW, AND AT THIS TIME AM ANXIOUS TO STATE, THAT THE VALUE OF THIS SERVICE THUS RENDERED CANNOT WELL BE OVERESTIMATED."

The leading editorial in the largest Baltimore paper described the verdict as a "community verdict," as follows:

THE WOLF VERDICT.

"Whatever technical legal opinion may be as to the verdict of the court of five judges of the Supreme Bench in the case of the member of the bar whom they have solemnly adjudged to be guilty of conspiracy to obstruct justice, there cannot be the slightest doubt that their decision represents the overwhelming sentiment of the people of this city. It is essentially a community judgment and not merely a court judgment. For once, at least, the popular mind and the judicial mind are in accord.

"There can be no doubt that public feeling has exercised a tremendous pressure in this and all the other cases growing out of the Norris murder. Rarely before in the history of this city have the people of Baltimore been so shocked, so horrified, so aroused as by the brutal crime of August 18. The intense moral reaction to it was ascribable not merely to the cold-blooded circumstances of the murder, to the high character of the victim, to the unusual ferocity of the assailant, but to the far-reaching implications of the tragedy as the case was developed from day to day. As these developments came, it seemed clear that the blow of the murderous gang was, in effect, aimed not only at Mr. Norris, but at the safety of the whole community; that it was the logical outgrowth of underworld affiliations with the upper world and with persons and agencies connected with the administration of justice. The great majority of people grew to feel that they faced a crisis of gravity and danger; that a fundamental issue of civilization was involved: that a conflict between government by law and government by the criminal and crooked elements of society must be fought to a finish; that it presented not simply the tragedy of an individual, but the majesty of law and the supremacy of civic decency and honesty, and the security of the general public.

"The case thus became in truth and fact, and not merely in name, that of the State of Maryland and the city of Baltimore against all who were brought to bar for trial. The prosecution consequently represented every respectable and law-abiding household in Maryland, and was followed with profound and personal interest in every section of the State. The detailed testimony was studied almost as carefully by readers of the newspapers as by the lawyers for the State and the defense. Rarely if ever before in Maryland has so large a jury of the people been unofficially impaneled in a case of this character.

"And the court verdict in every instance, it is safe to assert, has been the verdict of the outside public, except, perhaps, that the latter was sterner and more severe." * * * (Italics are ours.)

We respectfully submit that it is impossible to read the whole record and reach the conclusion that at any stage of the trial was Mr. Wolf given the benefit of any matter in doubt; or that at the threshold of the case he was not shorn of the presumption of innocence, evidence in his favor and a valuable right; or that all intentions, even as to matters at most mere errors of judgment or of good taste, all matters equally consistent with innocence as guilt, were resolved against him.

This Court said in the recent case decided March 15, 1923, *Canton Lumber Co. vs. Burton Lumber Co.*, that no such speculation of guilt was proper.

The presumption of innocence is not the last refuge of a scoundrel, but the prime right and first safeguard of innocence.

In *Coffin vs. United States*, 156 U. S. 452-455, by White, C. J., the Court said:

"The principle that there is a presumption of innocence in favor of the accused is the undoubted law, axiomatic and elementary, and its enforcement lies at the foundation of the administration of our criminal law.

"It is stated as unquestioned in the text-books, and has been referred to as a matter of course in the decisions of this Courts and in the Courts of the several States. * * *

"Greenleaf traces this presumption to Deuteronomy, and quotes Mascardius De Probationibus to

show that it was substantially embodied in the laws of Sparta and Athens. 'On Evidence,' Part V, Section 29 note. Whether Greenleaf is correct or not in this view there can be no question that the Roman law was pervaded with this maxim of criminal administration, as the following extracts show:

"Let all accusers understand that they are not to prefer charges unless they can be proven by proper witnesses or by conclusive documents, or by circumstantial evidence which amounts to indubitable proof and is clearer than day." Code L. IV., T. XX. 1, 1. 25.

"The noble (divus) Trajan wrote to Julius Frontonus that no man should be condemned on a criminal charge in his absence, because it was better to let the crime of a guilty person go unpunished than to condemn the innocent.' Dig. L. XLVIII., tit. 19. 1. 5.

"In all cases of doubt, the most merciful construction of facts should be preferred.' Dig. L. L. tit. XVII., 1. 56.

"In criminal cases the milder construction shall always be preserved.' Dig. L. L. tit. XVII., 1. 155, s. 2.

"In cases of doubt it is no less just than it is safe to adopt the milder construction.' Dig. L. L. tit. XVII., 1, 192, s. 1.

"Ammianus Marcellinus relates an anecdote of the Emperor Julian which illustrates the enforcement of this principle in the Roman law. Numerius, the governor of Narbonensis, was on trial before the Emperor, and, contrary to the usage in the criminal cases, the trial was public. Numerius contented himself with denying his guilt, and there was not sufficient proof against him. His adversary, Delphidius, 'a passionate man,' seeing that the failure

of the accusation was inevitable, could not restrain himself and exclaimed, 'Oh, illustrious Caesar! if it is sufficient to deny, what hereafter will become of the guilty?' to which Julian replied, 'If it suffices to accuse, what will become of the innocent?' Rerum Gestarum, lib. XVIII., c. 1. The rule thus found in the Roman law, was along with many other fundamental and humane maxims of that system preserved for mankind by the canon law. Decretum Gratiani de Presumptionibus, L. II., T. XXIII., c. XIV., A. D. 1198; Corpus Juris Canonici Hispani et Indici. R. P. Murillo Velarde, Tom. 1, L. II., n. 140. Exactly when this presumption was in precise words stated to be a part of the common law is involved in doubt. The writer in an able article in the North American Review, January, 1851, tracing the genesis of the principle, says that no express mention of the presumption of innocence can be found in the books of the common law earlier than the date of McNally's Evidence (1802). Whether this statement is correct is a matter of no moment, for there can be no doubt that, if the principle had not found formal expression in the common law writers at an earlier date yet the practice which flowed from it has existed in the common law from the earliest time." * * *

"How fully the presumption of innocence had been involved as a principle and applied at common law is shown in McKinley's case (1817), 33 How. St. Tr. 275, 506, where Lord Gillies says: 'It is impossible to look at it (a treasonable oath which it was alleged that McKinley had taken) without suspecting, and thinking it probable, it imports an obligation to commit a capital crime. That has been and is my impression. But the presumption in favor of innocence is not to be regarded by mere suspicion. I am sorry to see, in this information, that the public prosecutor treats this too lightly; he seems to think that the law entertains no such presumption of inno-

cence. I cannot listen to this. I conceive that this presumption is to be found in every code of law which has reason, and religion, and humanity for a foundation. It is a maxim which ought to be inscribed in indelible characters in the heart of every judge and juryman; and I was happy to hear from Lord Hermand he is inclined to give full effect to it. To overturn this, there must be legal evidence of guilt, carrying home a decree of conviction short only of absolute certainty.' * * *

"The fact that the presumption of innocence is recognized as a presumption of law and is characterized by the civilians as a *presumptio juris*, demonstrates that it is evidence in favor of the accused. For in all systems of law legal presumptions are treated as evidence giving rise to resulting proof to the full extent of their legal efficacy." * * *

The great public excitement affected the Court and prejudiced Mr. Wolf, a wrong; this Court, Judge Urner speaking for the Court, in 135 Md., p. 86, said:

"But the identification and punishment of the criminal must be left to the careful and regular processes of the law, however deep and just may be the public sense of horror at the crime, the law does not tolerate any interference with the right of the humblest individual to be accorded equal and exact justice, and, when charged with crime, to have the question of his guilt or innocence fairly and impartially determined. It is of the highest concern to the people and courts alike that this vital and sacred right shall be preserved inviolate."

The Supreme Court of the United States in a case decided February 19th, 1923 (No. 199, October Term, 1922, Advanced Sheets), entitled "Frank Moore vs. E. H. Dempsey," in passing upon an appeal from the United

States District Court, Eastern District of Arkansas, in dismissing a writ of habeas corpus, on demurrer, reversed the lower Court, and decided that Moore and others tried in the State Court of Arkansas for murder, on the facts alleged in the petition for the writ, *had been denied due process of law, because by reason of public feeling and excitement and the pressure of the mob that the proceedings in the State Court, although a trial in form, were only a form.*

The Court let Keller echo answers to Mr. Leach's leading questions—a wrong.

Nurnberger vs. United States, Circuit Court of Appeals, 8th Circuit, October 28th, 1907, 156 Fed., page 721, reads:

"While the permitting of leading questions is a matter resting in the sound discretion of the trial Court, allowing a District Attorney in a criminal case to ask questions of his own witnesses, who are not unwilling or unfriendly, which are leading and in a form to suggest the answer desired and call for a mere conclusion of the witness, is an abuse of discretion, and is prejudicial error."

At page 734, the Court (Judge Philips) said:

"It must, however, be conceded that the abuse of such discretion would have no corrective if it were rigidly maintained that it is not reviewable."

At page 735, the Court said:

"It is difficult to escape the impression that the Court was either too indulgent to the Government or too discriminating against the defendant."

Lord Bacon said:

"It is a good point of cunning for a man to shape the answer he would have in his own words, for it makes the other party stick the less."

"A leading question propounded to a witness may by creating an inference in his mind cause him to testify in accordance with the suggestion conveyed by the question." U. S. vs. Lee Huen, 118 Fed. 442, at 446.

"His answer may be rather an echo of the question than a genuine recollection of events and in some cases may be inadequate to support a verdict or decree." Moore on facts, page 913, Section 814.

Conspiracy consists of a meeting of the minds of the conspirators, an instantaneous mental process, and under the harsh principles of the common law (abolished by Statute in Federal jurisdictions) is completed and punishable the instant the conspirators agree, whether they do anything further or not.

The law is that statements made by individual conspirators even as to measures taken in execution of furtherance of any such common purpose are not deemed to be relevant as such against any conspirators except those by whom or in whose presence such statements are made. (Stephens Digest, Law of Evidence Md. Ed. 1904, Pg. 30, State vs. Larkins, 49 N. H. 39; Commissioners vs. Ingraham, 7 Gray, Mass. 46; Moore vs. Shields, 121 Ind. 267, Samples vs. State, 121 Ill. 547.

Notwithstanding the above rule of evidence, the learned Court below let in many pages of testimony, being the repetition, pure narrative, of statements made by Keller, to Hurley, Leverton, and other officials, all out of Mr.

Wolf's presence, in no way in furtherance of any joint design.

THE IMPOSSIBLE WAS DEMANDED OF MR. WOLF, AND THE IMPROBABLE CHARGED TO HIM.

Mr. Wolf was held to an artificial super-standard of logical, clarified thought, impeccable judgment, the gift of prophecy, to be used, with faultless courage and tact in the face of embarrassment, grave emergency without precedent, sudden danger, all at the moment, upon peril of conviction in this case of a black crime.

For instance: the circumstance that Mr. Wolf, lacking omniscience, had a mistaken theory at first that the murder was committed by out-of-town men (the police had many mistaken theories), that he went to the police station to see some men when suspected merely—but correctly—it later developed, and some suspected unjustly and released, as lawyers are wont to do; that he promised General Gaither and the papers to help run down the culprits; that he did what he promised, and was instrumental in finding the owner of the death car, resulting in the arrest and confession of Allers, the finding of the box and auto tag, etc.; that he was personally friendly with some police; that he was personally at enmity with others; that he didn't talk, and that he talked too much; that he arranged with Police Captain Leverton, after Socolow and Keller left, to be within call next morning should either or both go to Mr. Wolf's office next day (when if they went it could only be or at least would likely be for the purpose of surrendering); that he once represented Socolow on a trivial case without charge, to help an unknown boy,—

a humanitarian act; that he did not violate a thoroughly well recognized professional obligation to respect Socolow's confidence in having sought Mr. Wolf's professional aid, notwithstanding it was refused; that he yielded to a human impulse and was frightened for the safety of his family with the two young thugs in his home presumably armed, dirty, desperate, and sought everywhere by the police and citizens seeking pecuniary reward; that he did not then and there do all the wise, brave and thoughtful things mature hindsight suggested to Court and public at the trial in a safe Court room specially guarded three months later—all these things, and all else this impetuous, impulsive, unsystematic victim did or said was construed at the trial as false and insincere; as pointing unerringly to guilt, and admitted in evidence.

The Court (R. 88, 94, &c.), in abuse of its discretion, as we have said, let the State's Attorney lead Keller on direct examination throughout. There was no need to lead him, he was cunning, willing and had rehearsed his written statement many times.

Keller was permitted to testify under circumstances that prevented counsel from hearing (R. 98). The comment of the Chief Judge (R. 100), "It is a perfectly leading question, but he" (the State's Attorney) "has a right to ask a leading question *when he can't get it out on general questions*. You gentlemen" (to counsel for Mr. Wolf) "know that, too"; likewise the melancholy and belated privilege allowed by the Chief Judge's ruling (having let in much inadmissible testimony given by Keller, and after Keller had told his story twice, over objection (R. 100), "You gentlemen can start to object now, if you want to"; the spontaneous and fixed objection

of the Chief Justice to exposing fully Keller's utter moral worthlessness (R. 162), and his refusal to let in the official record of Mueller, the probation officer, to discredit Keller (R. 308), the precise ground for reversing the Lanasa case, 109 Md.

The inference obvious from the questions asked by one of the learned Judges (R. 341), that with Socolow in his dining-room and Detective Hammersla on his porch, it was Mr. Wolf's duty (ignoring Mr. Wolf's obligation as lawyer to would-be client he had not as then talked to but briefly) to betray Socolow to the detective, and by failure to do so Mr. Wolf was an accessory after the fact, hence guilty of a conspiracy *that certainly when Hammersla was present was not in existence; the ruling of the Chief Judge that, "Whatever Mr. Wolf does is in furtherance of the conspiracy. Yes, that is admissible"* (R. 263); *like many other incidents, too numerous to mention, disclosed by the record, demonstrate that the learned trial Court, must necessarily, even if unconsciously, have been unable to give the accused a cool and impartial trial; and was effected by public clamor and the prejudices stimulated by the superlative excitement of the times.*

The curiously insufficient and inconsistent judgment imposed, had Mr. Wolf been guilty, indicates an unsettled, wavering state of mind on the part of the trial Court, and a fear of carrying an injustice to extremes—or else a compromise of views between Judges desiring to convict and Judges desiring to acquit. Certainly no lawyer conspiring with any man guilty of murder in the first degree to befuddle the police, no matter if the plan to be followed was silly and too awkward to deceive the

most gullible, is entitled to much mercy, immediately or incidentally.

The learned Court apparently overlooked the fact that an insignificant injustice could not be done, that no judgment on a verdict of guilty in such a case as this can be anything less than a calamity to a lawyer, and that the necessary incident, of a ruin so complete, permanent and terrible that no mere physical penalty can compare in severity thereto, is a burden, the Court should not yield to excitement, public clamor, or aught else but proof of guilt beyond a reasonable doubt, to impose.

The prejudices of the day will soon be forgotten. The passions which have excited or favored this prosecution will subside, but the consequences of the verdict will outlive both.

So much for the conditions generally pertaining to the trial.

EXAMINATION OF EXCEPTIONS SEVERALLY.

A LIST OF EXCEPTIONS NOT DISCUSSED ON BRIEF.

At the beginning of the trial the traverser reserved so many exceptions that the making of the objections and the reservation of the questions became an obvious disadvantage to the presentation of the State's testimony. After the Court had made clear its attitude on the admissibility of evidence it was suggested by counsel for the defense that an exception be given to the traverser on each question and answer, without the necessity of a formal objection and exception being made and taken in every instance. The Court early adopted this proposal,

so that the traverser had at the close of the proof an exception on every material adverse ruling. We make this statement because of the fact that in framing the bills of exception many exceptions taken were not incorporated, because the same questions were covered by the various bills of exception presented to the lower Court for its signature, and, consequently, if any testimony objected to is later on found in the record without an exception, it is for the reason given, and not because of a waiver of the point taken. It is needless to add that this action was taken to avoid the multiplication of exceptions to an incredible number. For further simplification, and because we are convinced that the material points on the evidence are covered by the remaining exceptions, we shall not discuss exceptions: 2nd (R. 27); 10th (R. 34); 15th (R.40); 25th (R. 49); 26th (R.49); 31st (R. 56); 34th (R. 61); 40th (R. 66); 43rd (R. 68); 46th (R. 72); 57th (R.72 to 74); 48th (R.75); 56th (R.94); 57th (R.95); 58th (R. 99); 61st (R. 112); 62nd (R. 116); 63rd (R. 118); 67th (R. 191); 68th (R. 194); 69th (R. 195); 70th (R. 196); 71st (R. 215); 79th (R. 228); 87th (R. 239); 88th (R. 240); 94th (R. 249); 191st (R. 260); 104th (R. 264); 109th (R. 269); 111th (R. 291); 112th (R. 294); 113th (R. 295); 114th (R. 297); 115th (R. 307); 116th (R. 308); 117th (R. 308); 118th (R. 436); 119th (R. 437); 120th (R. 437).

CLASSIFICATION AND STATEMENT OF EXCEPTIONS.

The evidence on this record naturally and logically falls into two periods: the first period, covering all that occurred before the time the conspiracy is alleged to have been formed at Wolf's home on the night of Wednesday, August 23rd; and the second period, embracing what happened on the visit of Keller and Socolow to the traverser's

home until the confession of Keller on Monday morning, August 28th.

In these two periods the testimony is mainly directed to the presentation of the conduct of Keller and the traverser. It has been found convenient to classify the selected exceptions with reference to the periods and the witnesses, with the result that the exceptions to be discussed are to be found in two groups, with subdivisions.

In Group One will be found all the discussed exceptions based upon testimony which related to acts and declarations before the night of August 23rd, when the conspiracy is asserted to have originated at the home of the traverser.

Group Two will contain all the discussed exceptions to testimony which dealt with the events which took place at and after the meeting at the traverser's house until the confession of Keller on Monday morning, August 28th.

THE PRINCIPLES OF LAW AND EVIDENCE MAINTAINED AND APPLIED ON THIS BRIEF.

First: If sufficient proof of conspiracy be given to establish the fact *prima facie* in the opinion of the trial Court, the acts and declarations of each conspirator, in the furtherance of the common object, and during the continuance of the combination, are admissible in evidence against all, whether present or not.

Testimony is accordingly not admissible:

1. If the acts and declarations of the co-conspirator were before the conspiracy was formed; or

2. If the acts and declarations of the co-conspirator were after the conspiracy was brought to an end by consummation, abandonment or failure; or

3. Unless the acts and declarations of the co-conspirator were in the course of, and in the furtherance of the common design.

Second: Where there has been an abuse of the discretion of the trial Court in permitting leading questions to the prejudice of the appellant, a reversible error is presented by an exception on that ground.

Nurnberger vs. United States, 156 Fed. Rep. 721.

Third: No act or declaration is relevant that is not shown to have a direct connection between the unlawful combination and the prosecution of its design.

The word "relevant" means that any two facts to which it is applied are so related to each other that according to the common course of events one either taken by itself or in connection with other facts prove or render probable the past, present or future existence or non-existence of the other." *Stephen's Digest of the Law of Evidence* (Md. Ed., 1904), p. 4. It follows that it is not permitted for testimony to be offered unless the fact proffered is first shown to be a part of the same transaction, or to be connected with it by the bond of probable cause or effect. *Reynolds on Evidence* (3rd Ed.), Secs. 12, 13.

Fourth: The fact that the trial below was before the Court does not deprive the traverser of his right to have the testimony presented according to the rules of evidence.

McAllister vs. State, 140 Md. 647, 652.

McClelland vs. State, 138 Md. 533, 539.

Fifth: A lawyer is bound to keep secret all information obtained from a party seeking to employ him, although he may neither be paid a fee nor accept the retainer.

ADMISSIBILITY OF THE ACTS AND DECLARATIONS OF A
CO-CONSPIRATOR AGAINST ANOTHER CONSPIRATOR.

It is unquestionably true that if the connection of the individuals in the unlawful enterprise be shown, every act and declaration of each member of the confederacy in pursuance of the original concerted plan, and with reference to, and in furtherance of, the common object, is in contemplation of law, the act and declaration of them all; and is admissible as evidence against each conspirator, provided it took place after the conspiracy began, and before its end by abandonment, failure or accomplishment.

Bloomer vs. State, 48 Md. 521, 531;

Hays vs. State, 40 Md. 633, 648, 649, 650;

Lawrence vs. State, 103 Md. 17, 21, 22;

Wharton on Crim. Ev. (10th Ed.), Sec. 698,
pp. 1430, 1431.

A conspiracy is essentially a combination of persons, and their acts and declarations are only admissible against one another on the theory that they are the acts and declarations of those united in one common design. An act or declaration cannot be done or made *in the course and for the furtherance* of the common design if it be either not begun or at an end, for then the union is

either not formed or dissolved, and its members are no longer in combination, and so speak and act severally and independently. Whatever happened *before* the beginning or termination of the combination is a *past fact*, and the very existence of the combination is a *past fact*. Furthermore, before the conspiracy was formed and *after* the end of the conspiracy, whatever declaration, admission or confession was made, and whatever act was done, by any of the company of conspirators, cannot be referable to the prosecution and conduct of a non-existent common design. Consequently, we have this accepted rule of evidence, that before the conspiracy is begun or is at an end, whether by accomplishment, abandonment or failure, no one of the conspirators is permitted by any prior or subsequent act or declaration of his own to affect the other conspirators. His prior or subsequent conduct becomes irrelevant and immaterial, except as against himself. His confession, even if in the form of a plea of guilty, or the most solemn admission made by him, after the conspiracy is at an end, is not evidence against his fellow-conspirators, but only against himself.

Wharton on Criminal Evidence (10th Ed.)
Sec. 699, pp. 1435, 1436;

2 Bishop Criminal Procedure, Sec. 229;

Lawrence vs. The State, 103 Md. 17, 22, 25, 26
(statement made the very day the conspiracy was consummated, but after its consummation);

1 Greenleaf on Evidence, Sec. 111; Vol. 3,
Sec. 94;

Sparf and Hansen vs. U. S., 156 U. S. 51, 56,
57-59; 39 L. Ed. 343;

Brown vs. United States, 150 U. S., 93, 98, 99;
37 L. Ed. 1010;

Weborg vs. United States, 183 U. S. 632, 657-658;

Logan vs. U. S., 144 U. S. 263, 275, 308, 309; 36 L. Ed. 429.

State vs. Larkins, 49 N. H. 39.

Commissioners vs. Ingraham, 7 Gray (Mass.) 46.

Moore vs. Shields, 121 Ind. 267.

Samples vs. State, 121 Ill. 547.

As stated by Greenleaf in his classical work on evidence:

“The principle on which the acts and declarations of other conspirators, and acts done at different times, are admitted in evidence against the persons prosecuted, is, that by the act of conspiring together, the conspirators have jointly assumed to themselves, as a body, the attribute of individuality, so far as regards the prosecution of the common design; thus rendering whatever is done or said by any one, in furtherance of that design, a part of the *res gestae* and therefore the act of all. It is the same principle of identity with each other, that governs in regard to the acts and admissions of agents, when offered in evidence against their principals, and partners as against partnership, which has already been considered. And here, also, as in those cases, the evidence of what was said and done by the other conspirators must be limited to their acts and declarations made and done while the conspiracy was pending, and in furtherance of the design; what was said or done by them before or afterwards not being within the principle of admissibility.” *Sec. 94, Vol. 3.*

The cases and authorities all speak with one tongue in declaring the rule to be as stated by Greenleaf. It must

be accepted as beyond controversy that all acts and declarations of any party to the conspiracy *before* the conspiracy existed are not admissible against any of those who afterwards formed with him the conspiracy, or subsequently became one of its members. So much is plain as pikestaff.

There is, however, some divergence of opinion with respect to whether or not, after a conspiracy has actually been entered into by two or more, the acts and declarations of these co-conspirators are admissible in evidence against one who later joins the unlawful combination. The rule as stated by Greenleaf is that:

“The connection of the individuals in the unlawful enterprise being thus shown, every act and declaration of each member of the confederacy, in pursuance of the original concerted plan, and with reference to the common object is, in contemplation of law, the act and declaration of them all; and is therefore original evidence against each of them. It makes no difference at what time any one entered into the conspiracy. Every one who does enter into a common purpose or design is generally deemed, in law, a party to every act, which had before been done by the others, and a party to every act, which may afterwards be done by any of the others, in furtherance of such common design.”

Greenleaf on Evidence, Sec. 111, Vol. 1; Sec. 93, Vol. 3.

1 R. C. I., title “Admissions and Declarations,” Sec. 60, pp. 509, 510.

In the absence of any knowledge of the prior declarations and acts of the original conspirators, it would seem that the rule announced in this section is too broadly

and unqualifiedly stated by Mr. Greenleaf. It certainly is a departure from the analogy of the relation of principal and agent, and of partners, upon which the rule rests, as neither the act or declaration of any agent, nor those of a partner, anterior to the formation of the relation of principal and agent or that of partners, are admissible as evidence to bind either the principal or the partner.

Owings vs. Low, 5 G. & J., 134, 143-145.

Ellicott vs. Nichols, 7 Gill 85.

In the sixteenth edition of Greeleat by Wigmore, Section 111 becomes Sections 184a, and the learned editor puts the doctrine as we argue it has been modified by the weight of authority:

“This general principle is not disputed and the controversies usually arise merely upon its application to the circumstances of each case. There are two chief things to be considered in thus applying it to the facts (1) whether a common purpose and co-operation between the persons has been sufficiently shown on the circumstances, and (2) whether the acts and admissions in question were made during the continuance of that purpose and co-operation. * * *

That the acts offered may have been done, as above said, see illustrations in R. vs. Frost, 4 State Tr. N. S. 85, 229, 244; R. vs. Cuffy, 7 State Tr. 467, 476.”

Until the joint unlawful act binds the conspirators in crime, they are not conjoined, but are separate individuals, responsible severally and not jointly, for their acts and declarations. No man can be criminally affected by the acts or declarations of a stranger. Two or more persons must be actually brought together in a common un-

lawful purpose before a conspiracy may exist. Of course, it is not essential that it be established by *direct* proof that the minds of the conspirators met in agreement in the unlawful enterprise, because, like any other fact, this may be shown by *circumstantial* evidence. But, whether the proof be direct or circumstantial, it must establish a combination between two or more persons, by some concerted action to accomplish some unlawful or criminal purpose, or to accomplish some purpose not in itself unlawful by criminal or unlawful means.

6 Am. & Eng. Ency. of Law (2nd ed.) 932, 933 and notes 840;

Garland vs. State, 112 Md., 83, 86, 87;

5 R. C. L., Sec. 1, p. 1061;

Com. vs. Hunt, 4 Metc. (Mass.) 111;

Lanasa vs. State, 109 Md., 602 607.

It follows that this privity and community of design cannot exist before the conspiracy is formed, and therefore, any act or declaration of a conspirator, in the absence of the co-conspirator, *before* the conspiracy exists, is not admissible in evidence against his co-conspirator.

It would appear that the rule supported by reason and authority is thus stated in the case of *People vs. Kief*, 126 N. Y., 661, 27 N. E. 556:

“Where the guilt of one of several defendants, jointly indicted for a felony, is sought to be established by evidence showing, or tending to show a conspiracy between him and the others for the commission of the crime, evidence as to acts or statements of the others must be confined to such statements as were made, or acts done, at times when the proofs in the case permit of a finding that a conspiracy existed, and

where the acts or statements were in furtherance of the common design. The acts or statements of one of the defendants *prior* to the formation of the conspiracy or subsequent to its termination by the accomplishment of the common purpose, or by abandonment are inadmissible as evidence against the others." (*Italics ours.*)

State vs. Walker, 124 Iowa 414; 100 N. W., 354;

State vs. Gilmore (Iowa), 132 N. W. 53; 35 L. R. A. (N. S.) 1084;

People vs. Stanley, 47 Cal. 113;

People vs. Davis, 56 N. Y. 95;

Patton vs. State, 6 Ohio St. 468, 470;

Fouts vs. State, 7 Ohio St. 464, 474, 475;

State vs. Grant, 86 Iowa 216, 227;

People vs. Irwin, 77 Cal. 495, 504;

Mere suspicion not enough.

State vs. Walker, 124 Iowa 414; 100 N. W. 354, 357;

Gill vs. State, 56 Tex. Crim. App. 202, 205, 17 Anno. Cases 1164;

State vs. Moeller, 20 N. D. 114; 126 N. W. 568;

People vs. Kief, 126 N. Y. 661; 27 N. E. 556;

Cuyler vs. McCartney, 40 N. Y. 221.

Some of the reasons for the view are ably set forth in *State vs. Gilmore*, 132 N. W. 53, as reported in 35 L. R. A. (N. S.) 1084, at p. 1088:

"No man's connection with a conspiracy can be legally established by what others did in his absence and without his knowledge and concurrence." *United States vs. Babcock*, 3 Dill. 581, Fed. Cas. No. 14,487. "To admit such declarations—such hearsay testimony—in proof of the conspiracy itself

would in civil matters 'put every man at the mercy of rogues', * * * and in charges of criminal conspiracy render the innocent the helpless victims of villainous schemes, supported and proved by the rearranged and manufactured evidence of the promoters thereof."

The Maryland rule is in accordance with the weight of reason and authority, as was clearly laid down in the conspiracy case of *Bloomer vs. State*, 48 Md. 521, at p. 530, the Court holding evidence of acts subsequent to the formation of the conspiracy admissible and saying:

"Before any act can be evidence against a man, it must be shown to be an act done by himself, or another, acting by his authority, or in pursuance of a common design."

In *Lawrence vs. State*, 103 Md. 17, this language was quoted with approval, and the rule so announced was applied (p. 21). In this case, John B. Lawrence, William Hooper and Virginia Hamilton were jointly indicted for a conspiracy to obtain money and property from John Rose by false pretenses. In the alleged conspiracy, but not indicted, was a man named Bell, who was shown to be acting in combination with Hooper, and statements of Bell were offered in evidence as occurring at a time when Lawrence had not been connected with the conspiracy, but as being made in the presence of Hooper. The Court applied the rule by admitting the proof offered as against Hooper, but not as against Lawrence and Hamilton, unless followed up by proof of their connection with the conspiracy (p. 25). The most significant ruling, however, was under the fifth exception, where the Court ruled that a conversation between the prosecuting Rose and Bell, before the first interview of

Rose, Lawrence and Bell, was not admissible against Lawrence or the other traversers (p. 25).

The Court of Appeals in applying this rule of evidence excluded all of the testimony offered under the fifth exception, and held what was offered under the first and fourth exceptions to be admissible against the one conspirator, who was present at the time the declarations were made by Bell, the co-conspirator who was not indicted (p. 25):

"It may be said in addition to the above that the acts and declarations of a co-conspirator to be received as evidence against others confederating with him must occur during the life of the combination, that is after the formation and before the consummation or abandonment of the object of the conspiracy."

8 Cyc. 680, 681, p. 22.

In Roscoe on Criminal Evidence, an authority of the highest order, we find:

"The rule, says Mr. Starkie, that one man is not to be affected by the acts and declarations of a stranger rests on the principles of the purest justice; and although the courts, in cases of conspiracy, have, out of convenience, and on account of the difficulty in otherwise proving the guilt of the parties, admitted the acts and declarations to be given in evidence, in order to establish the fact of a conspiracy, it is to be remembered that this is an inversion of the usual order, for the sake of convenience, and that such evidence is, *in the result, material so far only as the assent of the accused to what has been done by others is proved.*"

2 Stark. Ev., 235, 2nd ed.

Roscoe's Criminal Evidence (8th ed), Vol. 1, 430* (p. 572).

An apology may be due, because this statement of the rule was unnecessary, in view of the fact that each of the nine counts of the indictment allege that the conspiracy was formed on August 23, and the proof is that, if any conspiracy was formed, it was at the home of the traverser on the night of that day. Under every authority, therefore, any act or declaration of the three conspirators before the night of August 23 was prior to the formation of the conspiracy and so inadmissible.

3 Greenleaf on Evidence, Sec. 94.

However, in every instance, as was said in *Baker vs. State*, 80 Wis. 416, "it is indispensable that there be proof sufficient to establish *prima facie* the fact that a conspiracy existed at the time of the act or declaration sought to be introduced" (pp. 420, 421).

Sands vs. Commonwealth (Va.), 21 Grattan 871, 895, 896.

State vs. Crab, 121 Mo. 554, 563.

Wright on Criminal Conspiracies (1887), p 56.

THE MARYLAND CASES ARE IN ACCORD WITH THE
PREVAILING RULE.

In *Hays vs. State*, 40 Md. 633, the testimony showed that a conspiracy had been formed, and that *subsequent* to the formation of the conspiracy one of the conspirators wrote a letter to the prosecuting witness in furtherance of the criminal undertaking, and before its conclusion or abandonment (pp. 637, 648, 649). The letter arranged for the prosecutrix to go with one of the conspirators to the home of the co-conspirator where the abortion was alleged to have been performed in accord-

ance with the preceding understanding of the two conspirators.

Likewise, in *Bloomer vs. State*, 48 Md. 521, certain testimony, which was held admissible, related to the conduct of the conspirators in furtherance of their criminal purpose *after* the combination between them (pp. 530-535).

So in *Lawrence vs. State*, 103 Md. 17, all the testimony held relevant was *after* the unlawful combination was formed, and was in furtherance of its object and before its consummation (*5th, 2nd and 3rd Exceptions*, pp. 25, 26).

Again, in *Blum vs. The State*, 94 Md. 375, evidence was held admissible where the conspirators, in order to carry out their criminal scheme and pursuant thereto, distributed goods, bought on credit, among shops in different parts of the city where they were disposed of at a sacrifice (pp. 386, 387).

Unlike the four preceding cases, those of *Lanasa vs. State*, 109 Md. 604, 613-616; of *Garland vs. State*, 112 Md. 83, 91; of *Simond vs. State*, 127 Md. 29, 36-38, are instances where co-conspirators (Lupo and Tomburo; and Ellicott and Noel) testified against their former associates, but narrated their acts and declarations, and those of the accused in furtherance of the business of their respective conspiracies during its continuance.

In these three cases, the narratives of the prosecuting witnesses were assailed as untrue, but in only one of these was it attempted to support the credibility of the

co-conspirator by his own statements subsequent to the commission of the crime. The lower Court permitted it to be done in the *Lanasa* case, but the Court of Appeals held that, independently of *Section 3 of Article 35* of Bagby's Code, this testimony was, under the circumstances, inadmissible. The statement had been obtained thirty-nine days after the commission of the crime. In disposing of this question the Court said:

"If it be conceded that the statement is not excluded by *Section 3, Article 35, of the Code of 1904*, we are of opinion that such a statement by one jointly indicted with the appellant for the identical crime for which he was being tried, made so long after the commission of the offense and under the circumstances disclosed by the record, does not fall within the exception to the general rule 'which excludes mere hearsay evidence, because *ex parte* and without the sanction of an oath.' The rule which admits such testimony in corroboration of the evidence of an impeached witness is one which is 'not very generally recognized in the Courts of England, or of other States in this Country, and it should not be *extended*, but *applied strictly*. *Maitland vs. Banks*, 40 Md. 559.' In all the cases in this Court in which such evidence has been admitted it appears that the corroborating statement was made immediately, or soon after the transaction."

Lanasa vs. State, 109 Md. 620.

THE EXCEPTIONS TO WHICH THE RULES AND PRINCIPLES MAINTAINED BY THE APPELLANT ARE APPLIED.

GROUP ONE.

Exceptions on the testimony covering the period before the night of August 23rd, the time of the alleged conspiracy, sub-divided into:

- A. The acts and declarations of police officers and newspaper men; and
- B. The acts and declarations of Keller.
- C. The acts and declarations of the appellant.

GROUP ONE, SUB-DIVISION A.

The Acts and Declarations of Police Officials and Newspaper Men Before the Alleged Conspiracy.

11th, 13th, 14th, 16th, 17th, 18th, 110th, 82nd, 83rd and 84th Exceptions.

Under the 11th, 13th, 14th, 16th, 17th and 18th bills of exceptions the State was permitted to prove that on August 18th the police were seeking Hart, Socolow, Smith and Lewis for the murder of Norris and that on the same day Smith and Lewis were arrested (11th, R., 37, 38); that on August 22nd Allers surrendered in the morning, and was subjected to an examination by the State's Attorney in the morning of that day, and in the early morning of Wednesday, August 23rd, Allers confessed (13th, 14th, 16th, 17th, R. 39-42); that the automobile in which the murderers rode was discovered and seized by the police before Allers confessed (18th, R. 43).

This was the narrative of police activities, in which the appellant did not participate, and it had no evidential significance against the traverser, but served its part in the creation of an atmosphere of suspicion and distrust, so that, in the confusion caused by the very irrelevancy of the proof, the appellant would be asso-

ciated in the mind of the triers with the murderers in order that guilt might be imputed to his subsequent behavior.

In its process of piling innuendo upon innuendo, the State showed under the 110th exception by Sergeant Martin J. Mannion that the appellant represented Socolow in his professional capacity as lawyer in April, 1921, when Socolow was arrested on "suspicion of stealing some cigarettes from the F. A. Davis Company"; and that the appellant actually went to detective headquarters to see his client. This remote and isolated fact was offered "just to show association." The argument runs like this: a lawyer has a client in April, 1921, and the relations end with that employment *ergo*, when the party went to see the same lawyer professionally after an interval of one year and four months, the first, single and isolated employment is *ipso facto* proof tending to establish a conspiracy between them on the second visit by virtue of the theory of "association" (R., 268, 270).

By its rulings on the 82nd, 83rd and 84th exceptions, the lower Court admitted in evidence, while Harry S. Sherwood, a reporter for The Evening Sun, was testifying, copies of The Evening Sun of Wednesday, August 23rd, "Home Edition" and "Financial Edition," containing the confession of Allers, written by the witness (R., 231, 234).

The facts of the confession were not known to Sherwood. He was not present when Allers made it, and *he was not even the author of the entire article*, which was rewritten in The Sun office by a rewrite editor,—testifying: "If you will let me correct you, Mr. Poe, I did not write that entire story that day. I just wrote part of it

and others wrote the rest" (R. 235). So the confession was hearsay once removed when Sherwood heard it. It was hearsay twice removed in the mouth of Sherwood; and it was none the less hearsay when written and published in his newspaper, whose type and columns added not an iota to its truth. There is no offer to connect the confession as published in *The Evening Sun* with the appellant. The proffer was within the application of the maxim "*Res inter alios acta alteri nocere non debet.*"

GROUP ONE, SUB-DIVISION B.

The Acts and Declarations of Keller, Hart and Socolow Before the Conspiracy and Out of the Presence of the Appellant.

53rd, 54th and 55th Exceptions.

Under the ruling on the 53rd, 54th and 55th exceptions, Keller was permitted to testify to his companionship with Socolow and Hart from the night of Friday, August 18th, when Norris was murdered, until he and Socolow went to the appellant's home on Wednesday, August 23; to his intimate association with these criminals; their going to the garage, where Hart kept his car, getting the license tag of the automobile driven by the murderers, and the tin cash box in which Norris carried the money; taking these evidences of the crime under cover of night to a pond on Highland Avenue, where Hart and Socolow threw the tax and box into the pond for their concealment on Saturday night, August 19th; to his acting as messenger for Hart and Socolow, obtaining food and information for their sustenance and use (R. 85-93).

Wolfe was not present and had no connection whatsoever with a single word or act testified to by Keller.

Everything was done and said in his absence and before the alleged combination was conceived. The testimony was offered generally, and no attempt was made by the State to confine its effect to Socolow, who was with Keller at the planning of the things narrated.

In *Lawrence vs. State*, 103 Md. 26, it is said:

"The suggestion is that it was competent testimony as against the party with whom the conversation was held, and it might be as going to show the connection of such party with a conspiracy otherwise established against the appellant. It was admitted, however, without condition or limitation, against the appellant's objection and so could be used in the case against him under both counts of the indictment; whereas, as against him, when objected to, it was not competent evidence under either count. It is not within the rule of practice that when an offer of evidence is objected to generally the evidence will be admitted if competent for any purpose. *As to the appellant it was competent for no purpose, and so he was in the same position as if the indictment had been against him alone.*"

GROUP ONE, SUB-DIVISION C.

The Acts and Declarations of the Appellant Before the Alleged Conspiracy.

Exceptions 1st, 3rd, 4th, 5th, 6th, 7th, 8th, 12th, 19th, 20th, 21st, 32nd, 33rd, 35th, 36th, 37th, 38th, 39th, 55th and 86th.

Under the 1st, 3rd, 4th, 5th, 6th, 7th and 8th exceptions the State was permitted to show by General Gaither, Police Commissioner of Baltimore City, the horror of the appellant at the murder of Norris; his determination not to represent any one connected with

the crime; his offer, on the afternoon of the murder, to assist the public authorities in the arrest and conviction of the murderers; the acceptance of this offer, and the advice and suggestions he made from his first visit until the visit of Socolow and Keller at his house. Everything narrated was beyond the criticism of the State. His acts and declarations were the genuine manifestations of a sincere detestation of the murderer, and of a desire to see the malefactors brought to justice (R., 26-32).

Yet these creditable deeds were offered and received as evidence "*to show the conduct of the traverser, if your Honor please,—show how inconsistent it is with the conduct that we expect to show afterwards*" (R. 26). In other words, to use the language and the conduct of innocence as the firm basis of an arbitrary hypothesis of guilt; and to distort an impeccable course into proof of a future crime. By what process of reasoning can it be inferred that natural, lawful acts in the detection and punishment of crime are but the covert and sinister plotting and preparation for a conspiracy not yet conceived?

The State was obliged to vouch for the good faith and creditable conduct of the appellant, as testified to by General Gaither, but justified its proffer by the contrast of its goodness with the evil—as the State proposed to establish—of his course after Socolow and Keller saw him (R., 26). Outside of the incredible testimony of Keller, we challenge the State to point to a single act, or word, of the appellant at variance with his approved good conduct with General Gaither, and inconsistent with his absolute innocence of the crime charged. He counselled Socolow to surrender, and he gave Keller to the

police with the injunction to tell the truth. He kept faith with the authorities.

And Captain Burns, and Sergeant Himmelman, and Inspector Hurley are permitted to testify to appellant's conduct with respect to the investigation of the crime, and the arrest of the perpetrators. Not a single deed or word has reference to either Keller or Socolow.

Burns testified that Wolf said to him over the telephone that he thought Smith, Lewis and Carey, who had been arrested and were held, were not the guilty men, and that he wanted to see if he could get them out (12th exception, R., 39); and this conversation was heard and testified to by Sergeant Himmelman (32nd exception, R., 57), who, with Inspector Hurley, also testified that the appellant saw the prisoners Lewis and Smith in the morning and afternoon of Saturday, August 19th, the day after the murder (32nd and 33rd exceptions, R., 57, 58; Hurley, 35th, 36th and 37th exceptions, R., 62-64). Inspector Hurley was, also, allowed to testify to Wolf's opinion that the police were on the wrong track, and did not have the right men, and their arrest was "pinhead policing" (39th exception R., 65, 66).

It is important to bear in mind that all this testimony on the 12th, 32nd, 33rd, 35th, 36th, 37th and 39th exceptions related to what took place on August 19th, the day after the murder, when no charge had been preferred against any of the prisoners and all were being held on suspicion; and the police were then of the same opinion as the appellant with respect to Carey (R., 64, 65; 78-80).

In all the evidence admitted there is no suggestion that the appellant knew on August 19th who killed Norris; and as an attorney he was within his rights in acting for

these suspects. His decision was not to represent those who had murdered Norris, but he was as free, under his promise to General Gaither, as any other lawyer to defend an accused innocent of the crime.

In the 38th bill of exceptions, Inspector Hurley is allowed to testify to a casual encounter with appellant on Monday morning, August 21st. It was as Wolf was about to go to the Traffic Court, and the Inspector addressed the appellant, telling him that Smith and Lewis were being held for the murder of Norris. The appellant then asked the officer if Carey had been released and had been given his money (38th exception, R., 65).

The lower Court ruled that Captain Burns could testify that on Wednesday, August 23rd, about four o'clock in the afternoon, the appellant called him by telephone and congratulated him on the arrest of Smith, Lewis, Carey, Allers, Heard and Blades, and inquired about the release of his client, Jenkins, who had been falsely suspected, and that at the close of the conversation "He" (appellant) "also said to me, well, I may have something for you tomorrow" (19th, 20th and 21st exceptions, R., 44, 45).

What in heaven above, the earth beneath, or the waters under the earth, the "something" was nobody can tell from this record, except upon the theory, which seems to have been adopted, that to think a thing evil, when you wish to think evil, necessarily makes evil "something" of whose form and content you know nothing.

And then the State proved that on the night of the Norris murder, the Baltimore Sun, through its reporter,

Raymond S. Tompkins, enlisted the aid of the appellant to solve the problem of the tragedy. The conversation between the appellant and the reporter shows that the appellant said that The Sun might publish or keep quiet his efforts to bring the parties to justice; gave the reporter a tip in reference to some parties; and the reporter said that his paper would stand back of him in whatever aid he gave and could probably secure him a part in the prosecution of the guilty persons (85th and 86th exceptions, R., 237, 238). We agree the appellant did not act here with wisdom. However, the Court of Appeals has not yet held folly proof of a crime; and, in view of the treatment accorded the appellant, the sole effect of this proof is to supply another unnecessary instance of the ingratitude of the press.

Every one of these acts and declarations set out in the thirty-three exceptions in Group One occurred before the alleged conspiracy. Therefore, not a single one was admissible, because not one was done in the course and prosecution of a *common design*. Under the authorities, every ruling of the lower Court constituted reversible error. *Supra*.

The steady accumulation of irrelevant matter under these thirty-three exceptions created a situation deplorable in its effect upon the rights of the appellant. The inadmissible testimony pictured the widespread horror of the crime, and the vigilance of the police and the newspapers, and, by sly innuendo and adroit implication, the very service of the appellant in helping to apprehend the murderers became the evidence upon which the State rested the argument to the trial Court that the aid given by the appellant was the insincere and treacherous con-

duct of an associate with the criminal classes, with the object more effectually to subvert the administration of justice when the occasion was ripe for his unconscionable and sinister object.

The exact measure of the legal wrong suffered by the appellant is the verdict of guilty.

Cross vs. State, 118 Md. 668.

The usual and proper course is to require a foundation to be laid by proof sufficient in the opinion of the Court to establish *prima facie* a case of conspiracy between the parties accused, or at least proper to be laid before the jury as tending to establish the conspiracy, although "for the sake of convenience the acts or declarations of one are admitted in evidence before sufficient proof is given of conspiracy, the prosecutor undertaking to furnish such proof in a subsequent stage of the cause. But this mode of proceeding rests in the discretion of the judge, and in seditions or other general conspiracies is seldom permitted, except under particular and urgent circumstances; for otherwise, the jury might be misled to infer the fact itself of the conspiracy from the declarations of strangers."

Bloomer vs. State, 48 Md. 521, 531;

Hays vs. State, 40 Md. 633, 648, 650;

Lawrence vs. State, 103 Md. 17, 20, 21;

Garland vs. State, 112 Md. 83, 100.

Seibert vs. State, 133 Md. 309, 313, 315.

The action of the lower Court in permitting the State's Attorney to offer acts and declarations of the members of the alleged conspiracy before any foundation was laid

by any proof whatever of the conspiracy introduced much irrelevant and misleading testimony, which confused the issue and produced an incoherent, irrelevant and unrelated mass of facts whose sole office and effect were to induce the trial Court "to infer the fact itself of the conspiracy from the declaration of strangers," *supra*.

It was not a part of the *res gestae*, for the statements made and acts done were not a part of the alleged conspiracy, nor connected with it in any way; nor did they occur in execution or furtherance of a common purpose. The proof upon which the State relied for the establishment of the conspiracy demonstrated beyond cavil at least that the idea of a conspiracy was first and unexpectedly introduced and submitted to the traverser on the night of August 23rd at his home. Before the unforeseen arrival of Keller and Socolow at his house, Mr. Wolf had not seen, nor had any communication with, either of them. Their arrival was a startling intrusion. No one could assert the contrary. It must be accepted as incontrovertible that, even if the testimony of the practiced liar Keller be given the full weight of a truthful narrative, there was no common purpose before the evening of Wednesday.

It follows that the conduct of the traverser *before* the visit of Keller and Socolow to his home, was not a part of the *res gestae* of a conspiracy not then conceived. Neither was his conduct during this period relevant or material to establish a motive for the traverser to enter into the conspiracy charged, nor did it tend to prove that he was making any preparation for the formation of a conspiracy to thwart the administration of justice, or

that the imputed conspiracy was the natural and probable result of his course.

GROUP TWO.

Exceptions on the testimony covering the period of the night of August 23rd until the confession of Keller in the early morning of August 28th, sub-divided into—

A. The acts and declarations of Keller:

1. The night of August 23rd.
2. After the night of August 23rd.

B. The acts and declarations of appellant:

1. The night of August 23rd.
2. After the night of August 23rd.

C. The acts and declarations of third parties in the absence of Wolf.

GROUP TWO, SUB-DIVISION A.

1. *The Acts and Declarations of Keller on Night of August 23rd.*

59th and 64th Exceptions.

In the course of the examination by the State's Attorney, this question was put to the witness:

"Q. Now, what was said, if anything, by anybody, about having nerve or not having nerve?"

The question was leading and suggestive to the witness, as the whole examination had been, and this brief passage followed:

"(Mr. Robinson) He hasn't testified about anything like that.

(The Court) Overruled, gentlemen. It is a perfectly leading question, but he has a right to ask a leading question when he can't get it out in general questions. You gentlemen know that, too."

The reply was:

"He said: If you have got the nerve, it is all right" (59th *Exception*, R., 100, 101).

In view of the importance of his testimony, it is felt that there was error in the lower Court's permitting this testimony to be elicited in this disjointed manner, dissociated with the whole conversation; and wrested from the witness by a suggestive and leading question.

The meaning of this language depends largely on what was said before and after its utterance. The absence of the entire conversation deprives us of this test. The reply is the echo of the question. Lord Bacon made a pertinent observation when he remarked: "It is a good point of cunning for a man to shape the answer he would have in his own words, for it makes the other party stick the less." A like observation is made by the Court in *U. S. vs. Lee Huen*, 118 Fed. 442 at 446: "A leading question propounded to a witness may by creating an influence in his mind cause him to testify in accordance with the suggestion conveyed by the question." *Moore on Facts*, Sec. 814, p. 913.

The crime of conspiracy is one of design. To know what was the design, you must have the exact words of the whole conversation between the conspirators. The language of the parties is of supreme importance. The

difficulty, if not the impossibility, of any witness being able to recall the very words used makes it of vital moment in a criminal case, that there be no leading, no prompting in the narrative of the very terms of a conspiracy. This record supplies the instance to support the statement. Look on this picture, and then on that:

<i>Keller when led:</i>	<i>Keller when not led:</i>
“If you have got the nerve, it is all right” (R. 101).	“He has got the nerve” (R. 115).

The appellant, who is supported by Socolow, who was present, and by his family, who heard, say nothing of the kind occurred.

Is the State entitled to take its preference in these divergent tales? It certainly should not be given this privilege as a result of the error of the Court in permitting a witness to be led, who eagerly played the part of informer under circumstances furnishing a counterpart to those depicted in *Lewy vs. State*, 116 Md. at pp. 292, 293.

The 64th exception presents a similar question. Keller had been in the hands of the State's Attorney for some time. He had been freely led and prodded when his story lagged, but his narrative lacked one statement. The State's Attorney asked if Keller could not remember something else that was said when Mr. Wolf advised Socolow to give himself up. The witness could only repeat what he had said before, and then the State's Attorney put this direct and leading interrogatory:

“Q. Did either one talk about Allers' confession?
A. No.”

Here was a direct and categorical answer. Notwithstanding this clear reply to a plain question, the State put the same question in a different and suggestive fashion, and the appellant objected. The Court should have sustained this objection, but did not, with the result that the witness *denied* his former reply to the extent of saying: “I think Socolow said Allers confessed” (R. 119).

In making this point, the appellant is aware of the great latitude allowed to the lower Court, but we feel the discretion was abused to the prejudice of the accused. The record shows this witness was led throughout in daring manner, although the appellant vigorously protested. At the very beginning of Keller's testimony the Court announced its purpose to permit this willing and coddled witness to be led.

“(Mr. Leach) Go ahead, John; don't pay any particular attention to these folks here (indicating counsel for the accused); go ahead unless the Court stops you.

(The Court) I am giving you an objection and an exception to every question and answer.

(Mr. Robinson) But, your Honor, can they violate the rules as to leading their witness in a case like this?

(The Court) That is within our discretion. We do not think it is leading. If it is, it is within our discretion to allow it.

(Mr. Dennis) How are we going to call it to the attention of the Court if we are not to object?

(The Court) I am giving you an exception to everything he asks.

(Mr. Parke) On the ground also that it is leading?

(The Court) Yes” (R. 88, 87, 94, 95, 100, 107, 118).

In *Nurnberger vs. United States*, Circuit Court of Appeals, 8th Circuit, October 28th, 1907, 156 Fed. 721, the Court held that while the permitting of leading questions is a matter resting in the sound discretion of the trial Court, allowing a District Attorney in a criminal case to ask questions of his own witness, who is not unwilling or unfriendly, which are leading and in a form to suggest the answer desired and call for a mere conclusion of the witness, is an abuse of discretion, and is prejudicial error.

At page 734, the Court (Judge Phillips) said: "It must, however, be conceded that the abuse of such discretion would have no corrective if it were *rigidly maintained that it is not reviewable.*"

At page 735, the Court said: "It is difficult to escape the impression that the Court was either too indulgent to the Government or too discriminating against the defendant."

GROUP TWO, SUBDIVISION A.

II. *The Acts and Declarations of Keller After the Night of August 23rd in the Absence of Appellant.*

22nd, 23rd, 24th, 27th, 28th, 29th, 41st, 42nd, 44th, 45th, 48th, 49th, 50th, 51st, 52nd, 60th, 66th, 72nd and 91st.

Under the 22nd (R. 46), 23rd and 24th (R. 47), 27th (R. 50), 28th (R. 51), 29th (R. 52), 41st and 42nd (R. 66, 67), 44th (R. 69), 45th (R. 71), 48th and 49th (R. 75), 50th (R. 76), 51st (R. 76), 52nd (R. 77), 60th (R. 111), 66th (R. 187), 72nd (R. 216), 91st (R. 244), exceptions are set out the acts and statements done and made by Keller in the absence of Mr. Wolf, after the visit of himself and Socolow to appellant at his home.

It is vital to bear in mind that there must be *prima facie* evidence of a conspiracy *before* the acts and declarations of a co-conspirator are admissible against the accused. If the usual order is reversed, and acts and declarations of a co-conspirator are introduced before the *prima facie* evidence of a conspiracy is established in the opinion of the trial judge, without an offer to follow up with proof of the conspiracy, then there can be no question of the error in admitting the testimony of the police officers and newspaper men as to the acts and declarations of Keller, unless the Appellate Court should be convinced that a *prima facie* case of conspiracy against the appellant was later established.

Lawrence vs. State, 103 Md. 20, 21, 25, 26;

Bloomer vs. State, 48 Md. 633, 648, 650;

Hays vs. State, 40 Md. 633, 648-50;

State vs. Cain, 20 W. Va. 679, 694;

1 *Bishop on Criminal Pro.*, Secs. 1148-1254;

2 *Bishop on Crim. Pro.*, Secs. 227-232;

Underhill on Crim. Ev., Secs. 492, 493.

Was there at the end of the trial a *prima facie* case of conspiracy sufficient to warrant the introduction of Keller's acts and declarations? If not, there was reversible error in the lower Court's rulings.

It is upon the testimony of Keller that this *prima facie* case of conspiracy must be found. It is the indisputable proof of this record that the appellant was not a companion or associate of Keller or of Socolow. He was not bound to them by ties of interest, friendship or blood. There had been no previous correspondence or communication. Their unexpected and unpremeditated visit was a shocking and unwelcome intrusion. The appellant de-

clined to act as counsel for Socolow, and received no fee or compensation whatsoever. He urged Socolow to surrender to the law. He agreed to represent Keller in the automobile charge, and told him to report to his office in the morning.

When he asked Captain Leverton to come to his office the same morning, when he turned the boy over to Leverton to tell all he knew; when he gave the cue to the newspaper men to follow Leverton and Keller, he was aiding the State in its efforts to catch and punish the murderers. He put in operation every legitimate agency at his command in the interest of law and justice.

There is not a single act or word of the appellant that is not a denial of guilt. There was never a word spoken nor a thing done by him that, as displayed and illumined by its setting, was not consistent with his entire innocence. We challenge the record for a refutation of these facts.

A *prima facie* case of conspiracy means that amount of evidence which is sufficient to establish the fact of a conspiracy. It may be said to require such a state of proof to exist as, in the absence of evidence to the contrary, would justify a verdict of guilty.

Thayer's Preliminary Treatise on Evidence,
p. 543, n.

The acts and declarations of one co-conspirator are not sufficient to establish the *prima facie* fact of conspiracy against a conspirator.

In *State vs. Thompson*, 69 Conn. 720, 726, 728, 38th Atl. 868, 870, the Court said:

"Nor do we think it can fairly be said that the Court held the declarations of one of the conspirators was competent evidence to establish a combination between the two, in the sense that such acts and declarations of one could be sufficient *prima facie* evidence of the combination of the two."

Mere knowledge that Keller was talking of at-

Marrash vs. U. S., No. 168 Fed. 225, 231;

Stager vs. U. S., 223 Fed. 510, 512-514;

Ormsby vs. People, 53 N. Y. 472, 475.

Corn vs. Holmes, 127 Mass. 424, 439.

There must be proof, not speculation, to make out a *prima facie* charge. "The essence of the offense consists in the *unlawful agreement and combination* of the parties; and therefore it is completed whenever such combination is formed, although no act be done towards carrying the main design into effect."

3 Greenleaf on Evidence, Sec. 91.

In this case the parties to the alleged conspiracy are shown to be together, and what occurred between them is *not* a matter of inference from circumstantial evidence, but of knowledge from the fact that the co-conspirator Keller is a participant.

The conspiracy, if ever made, was entered into in the night at Wolf's home. If there were a conspiracy, the crime was complete that *very* night. All that occurred afterwards, attributable to the common purpose, would be the *result* of the crime. So, any subsequent act or declaration, in pursuance and during the life of the combination, would not constitute the crime; and would

merely be circumstantial evidence tending to prove the original criminal agreement.

It follows that from what was done and said by the conspirators after the combination you have to *infer* the conspiracy; but, if one of the conspirators testified to all that took place when the unlawful combination was formed, there is no room for inference, as the proof is *direct* and *positive*.

If, therefore, the subsequent acts and deeds of one of the conspirators is as consistent with innocence as with guilt, the evidence against him of a common design must be sought in what took place at the meeting when the conspiracy was born.

Within the four corners of this record there is not a single fact proved, after the alleged combination was formed, that is not consistent with Wolf's innocence of conspiracy to obstruct justice. If these subsequent facts were even such as to be more compatible with his innocence than with his guilt, the presumption of innocence would prevail and they would be, at least, insufficient to make a *prima facie* conspiracy.

ShIPLEY vs. B. & O. R. R. Co., 39 Md. 257.

U. S. vs. GOLDBERG, 25 Fed. Cas. No. 15233, pp. 1342, 1348.

DORT vs. McDONALD, 182 Pac. 628, 629.

McGIMMIS vs. U. S., 256 Fed. 621, 626.

It is an inevitable conclusion that what occurred at the appellant's house on the night of August 23rd constituted the crime of conspiracy, if any; and whether or not a *prima facie* conspiracy has been shown depends wholly

and absolutely on the sufficiency of the facts of Keller's narrative, upon the assumption that his testimony be true, to show a *prima facie* conspiracy. His testimony follows:

"(The Witness) When Mr. Wolf was away—we were talking about instead of him and Socolow and Hart taking me to the box, put it on Allers, and when Mr. Wolf came in Socolow asked him how would this sound, or how would this do, and he said instead of me and Hart taking him to the box, say that Allers was taking him to the box and frame him, Socolow—I heard Allers say he was framing Socolow. And then I told Mr. Wolf. Mr. Wolf said, 'You are sure you know where it is at?' and I told him yes; told him about what I would say that Frank Allers—instead of calling him Frank Allers say 'Chicago,' and another fellow came up on Broadway—I was standing on Broadway at Baltimore street, and this fellow came up and said, 'You want to make a couple of dollars?' and I said, 'Yes.' And he said, 'Come with me; take me to Broadway.' And gets on a car that goes east on Fayette street and takes me down to Highland avenue to this garage 88, and I get the box and tags and take it up to the pond and drop them in the pond, and he gives me twenty-five dollars. And then the telephone bell rang—I told this to Mr. Wolf—and the telephone bell rang, and Mr. Wolf answered it, and he came back and he said, 'Let me hear that again.' And I told it to him again. He said, 'He has got the nerve' (pausing). And then Socolow said, 'I know a kid can talk pretty good by the name of "Shovel,"' and Mr. Wolf did not say anything and a couple of fellows came in (pausing). And then Mr. Wolf came back in, and he said, 'Come to my office at quarter of nine; I will have a friend there.' So Socolow said—

(Judge Bond) 'Have that friend there,' or 'A friend there?'

(The Witness) Have a friend there (pausing). And Socolow—I believe it was Socolow—said Mr. Wolf will have a friend there and he won't ask you many questions. And when we were walking out Mr. Wolf said, "There is only one thing I can tell you to do is to give yourself up. If you go trying to get out of town it will go that much harder on you" (R. 115, 116).

This is substantially all, except when Keller stated the conversation in response to the cross-examination of the State's Attorney, he represented Mr. Wolf's reply as: "If you have got the nerve it is all right" (R. 101, 90-100).

Here we find that in Mr. Wolf's home, while he was away from Socolow and Keller, they agreed that Keller should say Allers and Hart took Keller to the tin box; and that Keller heard Allers say he was framing Socolow. When appellant returned Socolow asked Wolf what he thought of it, and his reply was:

"You are sure you know where it is at?"

Wolf was called away again, and on his return asked Keller to repeat what he said, saying, after it had been repeated by Keller:

"He has got the nerve,"

or, at page 101:

"If you have got the nerve it is all right."

Wolf was called out again, and on his return told Keller to come to his office at quarter of nine the next morning, and that he would have a friend there, and that Socolow, he believed, stated that he would not ask many questions (R. 101).

We submit that this testimony does not show a *prima facie* agreement and combination on the part of Wolf.

Keller and Socolow have thought out a plan to aid Socolow by Keller putting Allers with Hart, in the place of Socolow, and to discredit Allers by stating that Allers had said he would "frame" Socolow. This plan, they submit to Wolf, who says, "He has got the nerve" in one version, or "If you have got the nerve it is all right," in the other.

Giving the testimony its full effect, Keller simply asked the appellant's judgment on what Keller had himself purposed to do, independently of any one else, and without concerted action.

Would anyone torture this into an unlawful agreement and combination? Not from what was said. An expression of opinion is far from an agreement.

The appellant had advised Socolow to surrender, and Keller, who was wanted on an automobile charge, he directed to his office the next morning where appellant said he would have a friend there, whom Socolow said would not ask many questions of Keller; whether about the auto theft or not does not appear.

Is there anything here to indicate a joint design or a combination to effect a common object? Again we say no, particularly in the light of what appellant did. Soon after Keller and Socolow left he called Captain Leverton by telephone and asked him to be at his office the next morning, as he would have some information for him in the Norris case. Captain Leverton was an officer of

thirty years' standing, and experienced in detecting criminals, as was well known by the appellant, who had been in conference with the appellant the previous Saturday, and had found out and taken into custody Heard, owner of the car used by the murderers. Nowhere on his record is there the slightest indication of collusion and fraud between Captain Leverton and Wolf, who knew he was in pursuit of the Norris murderers. Keller, the liar, and Captain Leverton, the incorruptible officer, testified for the State. Keller testified Wolf said to Leverton: "This kid will show you something," and, as he left, said: "Don't go asking the kid any questions" (R. 103). It may be suggested that if Wolf wanted Keller's proposed statements to be launched, he would have not asked this forbearance from inquiry.

Leverton, on the contrary, stated that Wolf told him that the boy knew where some of the goods in the Norris case were disposed of, and would tell him all he knew (R. 186, 190, 207, 208).

Can it be said that here is *prima facie* proof of an unlawful agreement and combination between Keller and the appellant? All the other proof in the record is negligible on this pivotal question of an unlawful confederation between the two. Casting aside the fact that Keller cannot be believed; that, if he were convicted of his admitted perjury, he could not testify because of the statutory disqualification; that he is contradicted by every witness in the case on every material point and corroborated in none; and then accepting his tale at its face value, we maintain that aspersion, conjecture and speculation will not suffice in Maryland to eke out the form of a *prima facie* case, or to permit a co-conspirator to give substance

and force to his own insufficient declarations and acts by the testimony of deeds and words which he alone ascribes to the joint unlawful agreement and combination of himself and others.

Ormsby vs. People, 53 N. Y. 472, 475;
Marrash vs. U. S., 168 Fed. 225, 231;
Stager vs. U. S., 233 Fed. 510, 512, 514;
Leury vs. State, 116 Md. 293;
2 Bishop on Crim. Pro., Secs. 230, 231;
Crawford vs. U. S., 212, U. S. 183, 203, 204;
53 L. Ed. 474.

"A conspiracy is proved either expressly, as where one of the persons implicated consents to be examined as a witness for the prosecution," or by circumstantial evidence.

Wright on Crim. Conspir. (1887), 212.

The proof here was express, as Keller was by his statement a co-conspirator and what was actually said he cannot recall with accuracy, *supra*. "It frequently happens also that the witness by unintentionally altering a few of the expressions really used, gives an effect to the statement completely at variance with what the party actually said."

Earle vs. Pickens, 5 C. & P. 542n, per Parks, J.
Rex vs. Simons, 6 C. & P. 5490, per Alderson.
Rex vs. Simons, 9 C. & P., 129.

The obligation is on the trial Court below to determine if a *prima facie* case of conspiracy has been made out independent of the acts and declarations of the co-conspira-

tor, out of the presence of the accused. In determining this question, the Court is not at liberty to ignore the character, the veracity, and the manner of the prosecuting witness, nor is it allowed to impute to the conduct of the traverser a guilty motive when an innocent one is equally probable. In the language of Judge McSherry, in a civil suit:

“Excluding the inadmissible hypothesis of inadvertent error and excluding it because there is no evidence of any kind to sustain it, there are but these alternatives left, viz: either that the entry was rightful or else that it was deliberately wrongful. If rightful then a tenancy by the entireties was created, and of course, rightfully created, and the fund now belongs to the plaintiff; if deliberately wrongful, then a fraud was perpetrated on Jacob Bowersox, because his money was diverted from him and from his estate without his consent. Which of these two extremes must be adopted? Every presumption obtains in favor of innocence and good faith. Where an act may be innocent or culpable, as antecedent circumstances make it the one or the other, and those antecedent circumstances are not disclosed; the plainest dictates of justice require that the act shall be treated as an innocent act. And so when the alternative is as to whether the act is rightful or wrongful, the act being one that may be either according to its environments, and there is nothing to show that it is wrongful, the natural and the general presumption, founded on observation and experience, is that it was rightful. *Praesumptio iudicatur potentior quae est benignior, Wills Cir. Ev. 157; Jones vs. Jones, 45 Md. 15.*” *Brewer vs. Bowersox, 92 Md. 574-575.*

In the late case of *Canton Lumber Company vs. Burton Lumber Company*, Nos. 8 and 9, January Term, re-

ported in *Daily Record* of March 26th, 1923, the Court stated anew the rule:

“It is a recognized and reasonable rule that if the circumstances are as consistent with the innocence as with the guilt of a defendant charged with conspiracy in an action like the present, the jury will not be permitted to speculate as to whether the accusation is well founded. 12 C. J. 639; *Ballentine vs. Cummings, 220 Pa. 621; Dart vs. McDonald (Wash.), 182 Pac. 628; Walsh vs. Walsh (Mo.), 226 S. W., 242.* Without legally sufficient proof of the alleged conspiracy the Canton Company could not be held responsible for a breach of duty which Werner might be found to have committed. 5 R. C. L. 1103; *Brinkley vs. Platt, 40 Md. 529.* Its liability was necessarily dependent upon the existence of knowledge on its part that it was participating in a violation of the plaintiff's rights. *Debnam vs. Simonson, 124 Md. 358.* The evidence, in our opinion, is not legally sufficient for a determination to that effect.”

Cross vs. State, 118 Md. 667, 668.

It needs something more than proof of a mere passive cognizance of fraudulent or illegal action of others to sustain conspiracy. There must be something showing active participation of some kind by the parties charged.

2 Wharton on Crim. Law (7th ed.) Sec. 2355; *Evans vs The People, 90 Ill. 384, 390; and supra.*

And here the only active thing that Wolf did was to telephone Captain Leverton to be at his office and there turn the boy over to give the prosecution the very proof it needed. In doing this, he was perfectly consistent with everything he had done from the very first day of the

murder. In doing this, his conduct was perfectly consistent with innocence, and not with the theory of guilt. How could the Court, without error, admit the co-conspirator's declarations and acts, out of the presence of the traverser, against the appellant? The error becomes all the more inexplicable when it is recalled that the State's own proof established that Keller was unworthy of belief, and was testifying under a promise of immunity.

After severally conceiving a false story, can this miscreant Keller, by repeating it, and repeating it to third parties, outside of the presence of the appellant, gave it a greater credibility than when it was first uttered? Can he be regarded as sufficient to prove the *prima facie* fact of a conspiracy, when he is contradicted in every material point and when his imaginings do not retain the consistency of truth?

It is respectfully submitted that a *prima facie* case of conspiracy not having been subsequently established, and this testimony having been offered generally, there was both error and injury and a reversal must follow on this point.

Hays vs. State, 40 Md., 648, 650, and *supra*;
State vs. Walker, 124 Iowa, 414; 100 N. W.,
354, 357;
Burke vs. Miller, 7 Cush. 547, 550.

Nor can the evidence be regarded as corroboration of what the prosecuting witness Keller testified to. It was offered *generally*, and not for that purpose. Moreover, when offered Keller had *not* testified.

Lawrence vs. State, 103 Md., 26.

Furthermore, Keller was jointly indicted with appellant and Socolow for the same crime for which the appellant was being tried; and, even if this proof had been offered *after* the testimony of Keller and for the specific purpose of corroboration, the testimony would have been excluded under *Section 3 of Article 35* of the Code.

Cross vs. State, 118 Md., 660, 670, 671;
See Lanasa vs. State, 109 Md., 620, 621.

"It is not sufficient to corroborate an accomplice as to the facts of the case generally. *He should be corroborated as to some material fact which tends to prove that the accused was connected with the crime charged. The corroboration that merely raises a suspicion of guilt, because the accused had an opportunity to commit the offense, is not sufficient.*"

Wharton on Criminal Evidence (10th Ed.),
Sec. 442.

R. vs. Kirkman (1909), 25 T. L. R. 656.

R. vs. Barrett (1908), 1 Cr. App. Rep. 64.

R. vs. Jacobs (1908), 1 Cr. App. Rep. 216.

R. vs. Warner (1908), 1 Cr. App. Rep. 227.

R. vs. Boyes (1861), 1 B. & S. 311.

R. vs. Thistlewood (1820), 33 St. Tr. 921.

Luery vs. State, 116 Md. 284, 292.

Lanasa vs. State, 109 Md. 613.

Garland vs. State, 112 Md. 83.

U. S. vs. Lancaster, 44 Fed. 922.

Wharton on Crim. Ed. (10th Ed.), Secs. 441,
442.

Comm vs. Holmes, 127 Mass. 424.

1 Roscoe on Criminal Evidence (8th Ed.),
132*-134*.

"As the reason for the rule as adopted by most courts is that the testimony of an accomplice alone and unsupported is regarded as too doubtful to be safe, the important matter is to have him supported in at least some of the material points involved, tending to show the guilt of the accused."

Leury vs. State, 116 Md. 294.

1837, Lord Abinger, C. B., in R. vs. Farler, 8 C. & P. 106:

"It is a practice which deserves all the reverence of law that judges have uniformly told juries that they ought not to pay any respect to the testimony of an accomplice unless the accomplice is corroborated in some material particular The danger is that when a man is fixed, and knows that his own guilt is detected, he purchases immunity by falsely accusing others."

For attitude of our own Court of Appeals, holding that the crime of conspiracy may not be established upon the uncorroborated evidence of accomplices and co-conspirators connecting the accused with the crime, see—

Lanasa vs. State, 109 Md. 604.

In People vs. Plath, 110 N. Y. 590, at 593, the Court says:

"The rule as to the corroboration of an accomplice is stated in Roscoe's Criminal Evidence, 122, as follows: 'That there should be some fact deposed to, independently altogether of the evidence of the accomplice, which taken by itself leads to the inference not only that a crime has been committed, but that the prisoner is implicated in it.' Russel on Crimes, 963, says: 'That it is not sufficient to corroborate an accomplice as to the facts of the case generally, but he

must be corroborated as to some material fact or facts which go to prove that the prisoner was connected with the crime charged.' 1 Greenleaf on Evidence, Sec. 381, lays down the rule as held by some, that it is 'essential that there should be corroborating proof that the prisoner actually participated in the offense, and that when several prisoners are to be tried, confirmation is to be required as to all of them before all can be safely convicted, the confirmation of the witness as to the commission of the crime being regarded as no confirmation at all as it respects the prisoner.

A suspicion is not sufficient nor when the corroborating testimony is as compatible with the traverser's innocence as his guilt.

The rule in New York is similar to that followed in other jurisdictions:

"The evidence to sustain charges such as have been here made and in a proceeding of this kind should be clear and satisfactory and convincing. The respondent is presumed to be innocent and proof of his guilt should be clearly established. This is especially true where, as in this case, the charges, if true, constitute violations of the criminal law. There is another remedy against the respondent. The criminal courts are open for his prosecution. If he is convicted of a felony, as he should be if these charges are true, disbarment will follow automatically and swiftly. We should not, except in a very clear case, anticipate what the verdict of the jury might be. We do not intend to imply that no action should ever be taken in a proceeding of this kind in advance of the action of the criminal courts; but when a doubtful question of fact exists, and that doubt can best be resolved by a jury in an appropriate tribunal equipped for the determination of such questions of

fact, we should hesitate to take action based on the guilt of the respondent when our action might be at variance with the pronouncement of a jury on the same question" (p. 508).

In re. an Attorney (1916), 175 App. Div. 410;
161 N. Y. S. 504.

In re. O'Neill (1918), 171 N. Y. S. 514, the Court refused to disbar on the ground that in disciplinary proceedings against an attorney, *the charge could not be based upon uncorroborated testimony of a self-confessed perjurer and unmitigated liar.*

GROUP TWO, SUB-DIVISION B.

I. Acts and Declarations of Appellant on Night of April 23rd.

Exception 65th--Hammersla.

Under the 65th Bill of Exceptions, Detective Hammersla testified to his conversation with appellant in reference to the Norris case. He visited Mr. Wolf while Socolow and Keller were at his house. When the appellant went out to see Detective Hammersla, an old friend, the idea of a conspiracy in the State's own direct and only proof had not been broached. (R., 114, 137.)

The recital of this interview was highly prejudicial, as from it was based the argument that because the appellant had not betrayed Socolow into the hands of officer Hammersla, convincing proof of the conspiracy was supplied. (R., 180, 183.)

The evidence was inadmissible on two grounds:

I. The conversation with Hammersla took place *before* there was any suggestion made by Keller or any one else relative to the alleged conspiracy.

Socolow was in the midst of his story, according to Keller of how Mr. Norris was killed, when they were interrupted by the arrival of Hammersla. The appellant went out on the north porch and sat in the swing with Hammersla talking. While they were on the south porch, adjoining the dining room, according to Keller, he and Socolow talked over the plan of helping Socolow. It was not until Hammersla had left the porch and premises and the appellant had returned, that the alleged design was submitted to Wolf. It was testimony relative to a conversation with a third party before there was a *common* design among Keller, Socolow and Wolf on the State's own theory. The evidence was inadmissible, as what occurred between Wolf and Hammersla could not throw any light on what did not then exist; and an idea of which had not even been conceived by Wolf. (*Authorities supra.*)

II. An attorney may not betray to the police a party who visits him to engage his professional service in the defense of a criminal charge however grave.

Bird vs. U. S., 187 U. S. 118.

In *Marbury vs. Brooks*, 7 Wheat. 557, at page 576, (5 L. Ed. 522, 527) Chief Justice Marshall remarked:

"The only feature in the transaction to which blame is attached is the attempt of a father-in-law to conceal the forgeries of a son-in-law, by paying off the notes he had forged. It may be the duty of a citizen to accuse every offender, and to proclaim every of-

fense which comes to his knowledge, but the law which would punish him in every case for not performing his duty is too harsh for man." (Cited in 1 *Bishop's Crim. Law*, Sec. 717, n. 3, and see, *idem*, Secs. 225, 226, 633.)

So, it may be said on high authority that the law does not require a private citizen to become a hero on the penalty of having criminality ascribed to his failure; and in legal ethics there is no duty on a lawyer to betray.

Socolow and Keller sought the advice of the appellant as a lawyer; and his home thereby became their sanctuary and their statements his sacred secret. It is to be presumed that, in Socolow's judgment, his whereabouts just then were to be kept a secret, an opinion he held notwithstanding Mr. Wolf's advice to surrender. Mr. Wolf's course, under difficult and dramatic circumstances, in not becoming a traitor to his clients and to the weighty responsibility of his honorable profession, should have brought commendation. We find it urged as an evidence of guilty. In such confusion of thought, ancient rules may be here restated without offense to this learned appellate tribunal.

DUTY OF ATTORNEY TO CLIENT.

"Whatever facts, therefore, are communicated by a client to a counsel solely on account of that relation, such counsel are not at liberty, even if they wish to disclose, and the law holds their testimony incompetent."

Justice Story in *Chiroc vs. Reemicken*, 11 Wheat. (24 U. S.) 280, 6 Fed. 474.

Samuel Warren wrote in *Duties of Attorneys and Solicitors* (1849):

"Maintain inviolate the secrets intrusted to you in your professional capacity. You must not betray them on any pretense—on any provocation whatever" (p. 227).

Brewer, J., later of the Supreme Court U. S., in *United States vs. Costen*, 38 Fed. 24, said:

"Now it is the glory of our profession that its fidelity to its client can be depended on; that a man may safely go to a lawyer and converse with him upon his rights or supposed rights in any litigation with the absolute assurance that that lawyer's tongue is tied from ever disclosing it; and any lawyer who proves false to such an obligation, and betrays or seeks to betray any information or any facts that he has attained while employed on the one side, is guilty of the grossest breach of trust. I can tolerate a great many things that a lawyer may do—things that in and of themselves may perhaps be criticized or condemned when done in obedience to the interest or supposed interest of his own client, and when he is seeking simply to protect and uphold those interests. If he goes beyond, perhaps, the limits of propriety, I can tolerate and pass that by; but I cannot tolerate for a moment, neither can the profession, neither can the community, any disloyalty on the part of a lawyer to his client. In all things he must be true to that trust, or failing it, he must leave the profession.

"Truth, like all other good things, may be loved immensely, may be pursued too keenly, may cost too much, and surely the meanness, and the mischief of prying into a man's confidential communication with his legal advisor, and the general evil of infusing reserve and dissimulation, uneasiness, suspicion and fear into these communications which must take

place, and which, unless in a condition of perfect security, must take place uselessly or worse, are too great a price to pay for truth itself."

Pearce vs. Pearce, 11 Jar. 52, at page 55, and 1 De Gex & Smale, 25, at page 27, cited in

State of West Virginia vs. Douglass, 20 W.

Va. 770, 783 (man charged with murder informed his attorney where pistol is hidden, *not admissible*, nor where body buried, 790).

Robson et al. vs. Kemp et al., 5 Esp, R., 52 (lawyer saw paper destroyed with fraudulent intent by bankrupt, *not admissible*).

Mr. Justice Brown, in Alexander vs. U. S., 138 U S. 353, at page 360, wrote:

"Had the interview in this case been held for the purpose of preparing his defense, or even for devising a scheme to escape the consequences of his crime, there could be no doubt of its being privileged, although he had made the same statements that his partner was missing and that he had not heard from him."

"But, in this respect, the communications of the prisoner to his counsel stand as is universally admitted, on a very different footing. They are not excluded as extorted confessions are, because of their probable want of truth, and would they were ever so strongly corroborated they would be excluded. For they are excluded simply on account of public policy, because it is considered that public interest would be promoted by letting even criminals escape just punishment, rather than to obtain their punishment by destroying the confidence of all clients and prisoners

in their counsel, which would be the necessary consequence of permitting under any circumstances these professional communications from being disclosed by an attorney. If this be not firmly upheld as the law, gross wrong would be done many a client and many an innocent prisoner, because they would always be apprehensive, that they could not safely tell the truth to their own counsel, and unless it could be safely told in many instances, no defense could be effectively made, though one in fact existed.

State vs. Douglass, 20 W. Va. 770, 790.

Ex parte McDonough, 170 Cal. 230.

The rule is well set forth in Wharton on Criminal Evidence (10th Ed.), Sec. 496, as follows:

"An attorney is not permitted to disclose communications made to him by his client in the course of their professional relations. The privilege is not affected by statutes allowing parties to become witnesses. Such communications were privileged at common law, and are generally protected by statute in all of the states. But this would be true irrespective of the statute, as the statute generally is merely declaratory of the common law rule. *The privilege is applicable to criminal cases as well as civil. Courts seek to give the rule its fullest application.* Thus, where an accused was on trial for stealing silver coin, it was held error to compel his attorney to testify that his retainer had been paid in silver coin. *The object of the rule is to encourage a free communication between the attorney and the client, and the rule is founded on public policy. The privilege belongs to the client. The privilege is protected even if another person is present with the client at the interview.*"

And see Secs. 497, 502, 505.

In *Thornton vs. Davis* (1835), 4 Cranch. C. C. 500, 23 Fed. Cases, 1147, Case No. 13998 (a most interesting case), a petition for freedom was filed by a negro, John Thornton, accompanied by a bill for injunction. The Court granted the injunction asked to restrain the owner, Orrine Davis, from removing the negro from the jurisdiction of the Court. The owner did remove the negro in violation of the injunction and a motion was made for an attachment against the owner for his disobedience.

During the argument on the motion, H. B. Robinson and Madison Jeffers, constables, were charged with assisting the owner in disobeying the injunction, and were then permitted to speak on their own justification; and, among other things, *stated facts implicating the purity of the professional character of G. L. Giberson, one of the negro's attorneys. The charge was that Giberson had consented to take \$25.00 for discovering where the negro was, so that he might be seized by the constables, who were endeavoring to catch him for the master so that he might take him beyond the jurisdiction of the Court.* This accusation resulted in charges being preferred against Giberson for his unprofessional conduct in agreeing to discover his negro client's place of hiding.

The disbarment proceedings are reported in *Ex Parte Giberson*, 4 Cranch. C. C. 503; 10 Fed. Cases No. 5388, 305, and the Court declined to disbar him on the evidence, but no one ever thought that it was either a criminal or an unethical act for the attorney to refuse to disclose to constables the refuge of a runaway slave, as the master was entitled to the possession of the negro until his freedom is established upon complying with the rules of Court.

The Court even exonerated the lawyer on the charge of having assented to take a fee of \$25.00 on the apprehension of the negro, saying:

"Mr. Giberson, believing it to be the intention of Mr. Davis to carry the petitioner out of the jurisdiction of this Court, notwithstanding the subpoena and injunction, might have deemed it his duty to deceive Robinson and Jeffers with a view to give notice to the petitioner. The petitioner was, in fact, taken and carried out of this district by Davis, but not by Robinson and Jeffers, nor does it appear to have been through any information furnished by them, or by Mr. Giberson. We must, therefore, acquit him of this part of the charge."

It is worthy of note that the above case was the converse of Mr. Wolf's. There the attorney was tried for alleged disclosure of the whereabouts of his fugitive client.

Lanasa vs. State (Md. 1909), 109 Md. 602; 71 Atl. 1058:

"The subject of confidential communications between attorney and client has been fully treated by this Court. The result of the authorities is that, to make the communications privileged, they must be made during the existence of the actual relation of attorney and client, or during interviews and negotiations looking to the establishment of such a relationship between the parties, and must relate to professional advice and to the subject-matter about which such advice is sought."

State vs. Tally (1893), 102 Ala. 25; 15 So. 722:

Where a person talks with an attorney, with a view to retaining him, the conversation is privileged, though the relationship of attorney and client is never established between them.

Denver Tramway Co. vs. Owens (1894), 20
Colo. 107; 36 P. 848:

Communications to an attorney are privileged when he voluntarily listens to his client's preliminary statements, or gives advice thereon, though there are no further relations between them.

Young vs. State (1880), 65 Ga. 525:

Statements made to an attorney by a woman while she was anticipating employing him to conduct a prosecution for an alleged rape upon her, are privileged.

Thorp vs. Goewey (1877), 85 Ill. 611:

Knowledge obtained by an attorney during negotiations as to the amount which he should receive for his services in prosecuting a contemplated suit, the negotiations resulting in no employment, are privileged.

Sargent vs. Inhabitants of Hampden (1854),
38 Me. 581:

It is a privileged communication if application is made to counsel for professional services, although the relation of attorney and client does not exist in fact.

Wade vs. Ridley (1895), 87 Me. 368; 32 Atl.
975:

Statements of fact made in good faith to an attorney at law, for the purpose of obtaining his professional guidance, are privileged communications, *though the relation of attorney and client does not exist.*

40 Cyc. 2366:

"Where a person consults an attorney with a view to employing him professionally, any information acquired by the attorney in the course of interviews or negotiations looking toward such employment is

privileged and can not be disclosed, even though no actual employment of the attorney as such follows, and notwithstanding the fact that the attorney may be afterward employed by the adversary of the person who made such communication."

Jones, Commentaries on Evidence (1914),
Sec. 749:

"In order that the communication should be privileged, it should be made as part of the purpose of the client to obtain advice. . . . The rule excluding testimony of professional communications between attorney and client is broad enough to embrace a case where the one seeking counsel pays no fee. . . . Communications made by a person in a conversation with an attorney with a view of retaining the latter are privileged, and they can not be called out from the attorney in evidence, although the relation of attorney and client is never established."

10 Ency. of Evidence, p. 256:

"Statements made by a person to an attorney, in anticipation or expectation of employment, are privileged, *although the attorney is not afterward employed.* But in such case it must appear that the person addressing the attorney intended to employ him or take his advice as attorney."

Thornton on Attorneys at Law, p. 175, Sec.
101:

"To exclude declarations as communications to counsel, *or made with a view to employment,* their root in the relation, *or contemplated relation,* of client and attorney must be manifest. They must be the offspring of the relation, *present or prospective,* not of taking or expecting to take the fruits of such a relation without forming it."

Page 195, Sec. 112:

"Communications made to an attorney with a bona fide view to his employment in his professional capacity *are privileged; even though the relation of attorney and client does not result from the consultation, or is never established between the parties. The reason upon which the rule is founded applies with equal force where the attorney is not able to determine whether to withhold or render his professional aid until the applicant has disclosed the merits of his case.* Then, if he should decline to act professionally in the matter, on account of previous engagements and prior obligations to others, or from necessity or choice, *the disclosures and communications thus made should be privileged.* The term *client* should be understood in its most enlarged sense; and the *prohibition should close the mouths of all counsel who have listened to disclosures looking to professional aid.*"

Thorp vs. Goewey (1877), 85 Ill. 611:

"The deposition of one Parsons, an attorney-at-law of Kansas City, . . . was taken, in which he testified to statements made to him by John W. Goewey in regard to the note in question. It appears that Parsons was consulted as an attorney for the plaintiff in the action in regard to the collection of the note, but for some cause the parties failed to agree as to the fee Parsons was to receive for prosecuting the suit, and finally he was not employed. The facts he disclosed in his deposition were obtained as an attorney, and while negotiations were in progress as to the amount of pay he should receive for his services. *These communications were privileged, and Parsons had no right to disclose them.*"

Andrews vs. Simms (1878), 33 Ark. 771:

Communications made by a person to an attorney while taking his professional advice are not admissible

in evidence, even though no fee was charged or paid.

To the same effect are—

Denver Tramway Co. vs. Owens (1894), 20 Colo. 107; 36 P. 848.

Bailly vs. Robles, 4 Mart. N. S. (La.) 361.

Browne vs. Dunn, 6 Reports (Eng.), 67, is digested in 5 Wews Eng. Case Law Dig., p. 587, as holding that, if a solicitor reasonably believes that his services may be required by a possible client, who does afterwards retain him, all communication passing between the solicitor and client, leading up to the retainer and relevant to it, and having that and nothing else, in view, are privileged.

IT IS THE DUTY OF AN ATTORNEY NOT TO DISCLOSE FACTS
RELATIVE TO THE LATTER'S PAST
CRIMINAL WRONGDOING.

See foregoing cases, and—

Wigmore, Evidence, Sec. 2298:

"It is possible, of course, to take merely the practical point of view, and to declare that the privilege must at least cease to be a cloak for criminal conspiracy. . . . But it seems hardly necessary thus to do violence to the theory of the privilege. Looking at the reasons of policy on which it rests, they appear by their natural limits to end with the same conclusion. They predicate the need of confidence on the part not only of injured persons, but also of those who, being already wrongdoers in part or all of their cause, are seeking legal advice suitable for their plight. *The confidence of such persons may legitimately be protected, wrongdoers though they have been, because . . . the element*

of wrong is not always found separated from an element of right; because, even when it is, a legal adviser may properly be employed to obtain the best available or lawful means of making redress; and because the legal adviser can not habitually be placed in the position of an informer. But these reasons all ceases to operate at a certain point, namely, where the desired advice refers not to prior wrongdoing, but to future wrongdoing."

Costigan, Cases on Legal Ethics, p. 97:

A solicitor, in his professional capacity, had obtained from a client information which, if disclosed to the Queen's Proctor, would, in all probability, prevent a miscarriage of justice, and inquired whether he ought to disclose it as an officer of the Court.

The Council of the Law Society, a committee of the Association of Solicitors of England, expressed the opinion that it is the duty of a solicitor not to disclose secrets confided to him by his client. Opinion of Council, Jan. 12, 1894.

State vs. Roker (1906), 130 Iowa 239; 106 N. W. 645:

The defendant was indicted for the crime of murder in the first degree. The trial resulted in his conviction, and from the judgment he appealed. Reversed.

Bishop, J.: "1. August Schroder, the person alleged to have been murdered, came to his death on June 30, 1900. It seems that, shortly thereafter, the defendant, Charles Roker, was arrested upon information filed before a justice of the peace, charging him with the murder of Schroeder, and upon hearing he was discharged. He then commenced a civil action for malicious prosecution against his

accuser, and one of the attorneys employed by him was Simon Fisher, who thereafter, as county attorney, signed the indictment which forms the basis of the present proceeding. Before pleading, defendant filed a motion to quash the indictment, supported by affidavits, basing the same upon the facts above stated, and the further averment that, as his attorney in said civil action, Fisher became possessed of all the information defendant had respecting the death of Shroeder and the circumstances and evidence in relation thereto. The motion then represents that Fisher made use of the information and knowledge thus obtained in conducting the examination of witnesses before the grand jury, in advising the grand jury, and in preparing the indictment voted and returned against the defendant. Notwithstanding the fact that Fisher made no attempt at denial of the matters thus charged, the motion was overruled.

"We think it should have been sustained. It is true the charge made was in general terms, but from the mere fact of a retainer in the civil action, it must be presumed that Fisher became possessed of every fact either known to Roker or concerning which he had information from others respecting the death of Shroeder and the circumstances and causes thereof. The communication, it may readily be supposed, would include the facts concerning his own life and character, as such might become material in various ways. All this would naturally follow a retainer. It was necessary, in the first instance, to enable the attorney to determine whether or not a cause of action existed, and, in the next place, to prepare for a presentation of the case in court and meet any opposition presented in the way of defense. Now, by statute it is made the duty of an attorney 'to maintain inviolate the confidence and at any peril to himself, to preserve the secret of his client.' Not only is this true by statute, but it is

true by every consideration of the ethics of the profession. And it has been held repeatedly that an attorney, who has once been made the recipient of the confidence of a client concerning a certain subject-matter, is thereafter disqualified from acting for any other party adversely interested in such subject-matter."

Judgment reversed and case remanded.

23 Am. & Eng. Ency. of Law (2nd Ed.), 68.

28 R. C. L., Sec. 147, p. 558; Sec. 165, p. 575.

Robson vs. Kemp, 3 Esp. 52.

Wheatley vs. Williams, 1 M. & W. 533.

Freeman vs. Brewster, 93 Ga. 648.

Dietrich vs. Mitchell, 43 Ill. 40.

Heister vs. Davis, 3 Yeates (Pa.), 4.

Ex parte McDonough, 170 Cal. 230; 149 Pac. 566.

People vs. Clark (Cala.), 203 Pac. 781.

May not be compelled to give *address* of client, if ascertained in communications for the purpose of obtaining advice.

23 Am. & Eng. Ency. of Law (2nd Ed.), 75.

28 R. C. L., Sec. 153, pp. 564, 564

Ex parte McDonough, 170 Cal. 230; 149 Pac.

566; Ann. Cases 1916 E 327; L. R. A.

1916 C 593; Ann Cas. 1913A 29.

Cox vs. Beckett, 11 Jur. N. S. 88.

Walton vs. Fairchild (N. Y. City St. Spec. T.),
4 N. Y. Supp. 552.

Ex parte Campbell, L. R. 5 Ch. 703.

Ex parte Official Receiver, 60 L. H. N. S. 109;
5 Morrell 286.

Hooper vs. Harcourt, III Bl. 534.

Ramsbotham vs. Senior, L. R. S. Eq. 575.

An attorney will not be ordered in a civil suit to disclose the address of his client in order to enable the moving party to arrest on a criminal charge.

Harris vs. Holler, 19 L. J. Q. B., N. S., 62; 7
Dowl. & L. 319.

Nor will a solicitor be ordered to disclose his client's address, when sought by the moving party for the purpose of serving process upon him.

Clark vs. Compton, 4 New Reports 15.

Heath vs. Crealock, L. R. 15 Eq. 257.

Re. Trainor, 146 App. Div. 117; 130 N. Y.
S. 682.

Communications *after* the crime is committed, with reference thereto, are within the general rule as to privilege and must not be disclosed.

23 Am. & Eng. Ency. of Law (2nd Ed.) 79
(p. C.).

Alexander vs. U. S., 138 U. S. 353.

Carency vs. Taunahill, 1 Hill (N. Y.) 33.

Hartness vs. Brown, 21 Wash. 655.

The privilege is not lost by the termination of the relation of client and attorney, whose "mouth is shut forever."

23 Am. & Eng. Ency. of Law (2nd Ed.) 80, 81.

2 Laws of England, Sec. 660, p. 394.

28 R. C. L., Sec. 160, pp. 570, 571.

Hodges vs. Millikin, 1 Bland (2nd Ed.) 503,
509.

Chase's Case, 1 Bland (2nd Ed.) 206, 222.

Chew vs. Farmers' Bank 2 Md. Ch. 231, 240.

Hunter vs. Van Bornhorst, 1 Md. 504, 509-511.
 People vs. Pratt, 133 Mich. 125; 67 L. R. A.
 923.

Lanasa vs. State, 109 Md. 612, 617-618.

See Munson's Manual of Elementary Practice, page
 62, Lawyer's Duty to Client, Sec. 58:

"He must faithfully preserve his client's secrets."
 Section 71:

"Professional Communications.—At common law
 as well as by statute all communications made by the
 client to his attorney in the course of his employ-
 ment are privileged,—even if the attorney is not re-
 tained, and whether or not the communication is im-
 portant, or has been given without the pledge of
 secrecy, etc." (page 77).

The same effect, see—

Sharswood's Legal Ethics, p. 86, note and
 cases cited.

From Weeks on Attorney-at-Law (2nd Ed.), page 312,
 Sec. 149:

"Injunction of Secrecy Unnecessary—Effect of
 Declining Retainer.—To entitle a client to the pro-
 tection of the rule, it is *not essential that he be ap-
 prised of it, or that he enjoin secrecy upon the attor-
 ney, nor that the client should be aware of his right.*
Declarations made to an attorney with reference to
his employment in a cause fall under the privilege,
although the attorney declines the engagement, be-
cause the latter may not be able to determine
whether to render or withhold his professional aid
until the applicant has disclosed the merits of his
case."

And Section 144, page 305:

"The general rules established by an apparent
 weight of authority, independent of statutory pro-
 visions, may then be stated in regard to privileged
 communications as follows: An attorney is privi-
 leged from giving evidence of any confidential com-
 munication made to him by his client, or concerning
 which he has been informed in his professional
 capacity as attorney for the client. *The privilege is*
that of the client, and not that of the attorney."

And Section 154, page 334:

" . . . It is enough to enable the protection
 of the law to apply, *that a legal adviser is sought for*
the purpose of confidential professional advice with
a view either to the prosecution of a claim or a de-
fense against a claim."

And Section 155, page 331:

"The mode by which the information is communi-
 cated . . . is not important. . . . The pol-
 icy of the law allows a man to make the best defense
 in his power; whatever may be his delinquency, *he*
is permitted to confer freely with his counsel . . .
without the peril of having his confidence betrayed
under the forms of law," etc.

And Section 166, page 358:

"Privilege applied to fraudulent transactions con-
 sulting attorney as to making fraudulent convey-
 ance privileges, etc., etc."

And Section 181, page 377:

"An attorney in a criminal case is bound by the
 same rules of confidential communications as in civil
 cases. He cannot be compelled and ought not to

disclose anything in evidence against his client, either before the Grand Jury or Court, which has been communicated to him in the course of his employment, etc., etc."

And Section 175, page 368:

" . . . But the Court will not make an order upon a solicitor compelling him to disclose the address of his client, the defendant, who has absconded, and whom plaintiff seeks to serve with a subpoena duces tecum, etc."

Ex Parte Cambell: Re. Cathcart, 23 Law Times Reports, New Series, 289:

"I stated in the course of the argument that if this gentleman's residence had been concealed, and if he is hiding for some reason or other, and the solicitor says: 'I have only known it because he has communicated that fact to me, and not communicated it to the rest of the world; that he has communicated it to me as his solicitor for the purpose of being advised by me in the matter,' *that would make it a matter of professional confidence.*"

Re Arnot: Ex Parte Chief Official Receiver (1888), 60 Law Times Reports, New Series, 109:

On July 31 the debtor departed from his dwelling house, and took with him all his furniture. On August 1 he had an interview with his solicitor, who was at that time unaware that an act of bankruptcy had been committed. On October 4 the debtor communicated by letter with his solicitor. In the proceedings that ensued the solicitor's clerk was examined as a witness, and declined to disclose the debtor's address, on the ground "that it had been communicated confidentially to him, as

the debtor's solicitor, for the purpose of advising his client in reference to these proceedings, and that such address had not been, so far as he believed, communicated by the debtor to the rest of the world." On application being made to compel the witness to disclose the address:

Held, that the address was under the circumstances a privileged communication, and as such need not be disclosed.

"Cave, J.—I am of opinion that in this case the witness was entitled to decline to answer the question. The first ground suggested was *that the abode of a client must always be disclosed; there is no authority for that proposition at all.* It was said that the address must be disclosed unless the client consults his solicitor as to what his address should be, but that is not the basis of privilege. The whole matter is explained in the case cited of Ex Parte Campbell: Re. Cathcart (*ubi sup.*). In that case James, L. J., says: 'If indeed the gentleman's residence had been concealed; if he was in hiding for some reason or other, and the solicitor had said: "I only know my client's residence because he has communicated it to me confidentially, as his solicitor, for the purpose of being advised by me, and he has not communicated it to the rest of the world," then the client's residence would have been a matter of professional confidence.'"

Costigan, Cases on Legal Ethics (1917), p. 365:

Committee on Professional Ethics, N. Y. Co. Lawyers' Association:

"Question 70: When an accused person has deposited cash bail for his appearance for trial on a criminal charge and has also made a deposit of

money with his lawyer, subject to the order of the accused, in case of conviction; and the bail is forfeited—

1. Is it improper for the lawyer to honor an order from his client, who has fled to Canada, directing the payment to one outside the State of the deposit made with his lawyer?

2. Is it incumbent upon the lawyer to advise the police officials of the receipt of a communication from his client disclosing his whereabouts and enclosing such order?

Answer: In the opinion of this committee there is no impropriety in the lawyer's honoring the order of his client in respect to the disposition of his client's property. *The client has not forfeited all civil rights nor his ownership of property by becoming a fugitive from justice. In the opinion of the committee it would be improper for the lawyer to disclose the information; his obligation to his client, imposed by our law in the interest of the supposedly proper and satisfactory administration of justice, a rule which is binding upon the lawyer, precludes him from making the disclosure to any one without his client's express consent.*

"The committee bases its latter opinion upon its view that the professional relation extends to the date of the communication, notwithstanding the other facts stated in the opinion."

In re. Billington (N. Y., 1913), 156 App. Div. 63, 141 N. Y. Supp. 16:

An attorney for a fugitive from justice *who goes beyond the mere giving of advice*, and offers to forward a letter to throw the authorities off the scent, and to bribe a public officer, and who informs the authorities, falsely,

that he does not know the whereabouts of the fugitive, will be disbarred. Page 21:

"The respondent (attorney) informs his client that he had obstructed the district attorney of this county in the performance of his duty by making false statements as to his knowledge of Stade's (the client's) address, and proposed to further obstruct him in the performance of his duty by procuring a letter which he understood would fall into the hands of the district attorney to be posted in Buffalo for the avowed purpose of throwing the authorities off the track. The respondent had represented Stade as his counsel. He had, of course, the right to advise Stade as to the course that he should adopt which would best protect his interests. *When called upon by the public authorities for information as to Stade, he had the right to refuse to answer any questions as to a fact which had been communicated to him by his client, or which he had ascertained in the course of his professional employment.* But he certainly was not justified in giving the district attorney or the public authorities false information or mis-stating facts which would obstruct the district attorney in the performance of his duties, or to *do any act* which would assist any person charged with a crime escaping prosecution therefor, or prevent or obstruct the officers of the law from performing their duties.

"I wish to clearly emphasize the fact that this offense is not that the respondent gave to his client advice, but that this attorney proposed to his client that he, the attorney, would, if furnished with money, bribe or endeavor to bribe a police officer to refrain from discharging his duty, and that, if furnished with a decoy letter, he, the attorney, would cause it to be posted at a place in New York State, so that, when it was received by the public authorities, they would be thrown off the track. It was the act that the respondent, an attorney and counsellor at law,

himself proposed to do that constitutes the offense, not any advice that he gave to his client as to what his client should do; and it is this offense that we are called upon to consider."

Harris vs. Holler (1849), 19 Law Journal, New Series, Queen's Bench (Eng.) 62:

The plaintiff, a female who had been employed by the defendant to take care of his house, but who had subsequently left it, brought an action against him for breach of promise of marriage. The defendant had threatened to proceed criminally against her on a charge of taking away some of his property from the house. *The Court refused to compel the plaintiff's attorney to disclose her place of residence, as the defendant knew who she was, and had avowed that he sought the information with a view to effecting her arrest on the criminal charge.*

"Much interest was excited some years ago in England, by the circumstances attending the defence of Courvoisier, indicted for the murder of Lord William Russell. The crime was one of great atrocity. It came out after his conviction, that during the trial he had confessed his guilt to his counsel, of whom the eminent barrister, Charles Phillips, Esq., was one. Mr. Phillips was accused of having endeavored, notwithstanding this confession, to fasten suspicion on the other servants in the house to induce the belief that the police had conspired with them to manufacture evidence against the prisoner, and to impress the jury with his own personal belief in the innocence of his client. How far these accusations were just in point of fact was the subject of lively discussion in the newspapers and periodicals of the time.

"The language of counsel, on such occasions, during the excitement of the trial, in the fervor of an

address to the jury, is not to be calmly and nicely scanned in the printed report. The testimony of such a witness as Baron Parke, at the time and on the spot—he, too, aware of the exact position of Mr. Phillips—and that confirmed by Chief Justice Tindal, is conclusive. To charge him with *acting falsehood*, that is, with presenting the case as it appeared upon the testimony, earnestly and confidently, means that he did not do that which would have been worse than retiring from his post.

"The non-professional as well as professional public in England, however, agreed in saying that he would not have been justified in withdrawing from the case: he was still bound to defend the accused upon the evidence; though a knowledge of his guilt, from whatever source derived, might and ought materially to influence the mode of the defence. No rightminded man, professional or otherwise, will contend that it would have been right in him to have lent himself to a defence, which might have ended, had it been successful, in bringing down an unjust suspicion upon an innocent person; or even to stand up and falsely pretend a confidence in the truth and justice of his cause, when he did not feel. But there were those on this side of the Atlantic who demurred to the conclusion, that an advocate is under a moral obligation to maintain the defence of a man who has admitted to him his guilt. Men have been known, however, under the influence of some delusion, to confess themselves guilty of crimes which they had not committed; and hence, to decline acting as counsel in such a case, is a dangerous refinement in morals. Nothing seems plainer than the proposition, that a person accused of a crime is to be tried and convicted, if convicted at all, *upon evidence*, and *whether guilty or not guilty*, if the evidence is insufficient to convict him, he has a *legal right* to be acquitted. The tribunal that convicts without sufficient evidence, may decide according to the fact; but the

next jury, acting on the same principle, may condemn an innocent man. If this be so, is not the prisoner in every case entitled to have the evidence carefully sifted, the weak points of the prosecution exposed, the reasonable doubts presented which should weigh in his favor? And what offence to truth or morality does his advocate commit in discharging that duty to the best of his ability. What apology can be made for throwing up his brief? *The truth he cannot disclose; the law seals his lips as to what has thus been communicated to him in confidence by his client.* He has no alternative, then, but to perform his duty.

Sharswood on Legal Ethics (5th Ed.), pp. 103-107.

"It has often been said broadly that statements made to an attorney, by his client in the presence of the adverse party, are not privileged. 40 Cyc. 2377. However, in the cases cited in support of such expressions, either the testimony of the attorneys was called for in litigation between his client and the opponent who had been present when the communication was made (or their representatives), or else the distinction was not noted between that situation and one where a stranger sought to elicit the testimony. The rule has more accurately been thus stated (the italics being ours except as to the first italicized phrase), the language being in part adopted from that of the opinion in Brittan vs. Lorenz, 45 N. Y. 51, 57:

"A communication between client and attorney is not confidential when made in the presence of the other party. When it is made in the presence of all the parties to the controversy, evidence of the communication is competent *between such parties*, and the attorney may be required, *in an action between them*, to testify thereto."

4 Jones on Evidence, Sec. 751b, p. 507.

This distinction and qualification as stated by Jones in his valuable treatise on evidence is supported by the weight of authority; and the rule may be thus stated:

The presence of a third party does not destroy the confidential nature of the communication between the attorney and the client, and the attorney may not be compelled to testify, although the third party may.

10 Ency. of Evidence, 241.

Blunt vs. Kimpton, 155 Mass. 378; 29 N. E. 590.

Denver Tramway Co. vs. Owens, 20 Colo. 107, 129; 36 Pac. 848.

Kant vs. Kessler, 114 Pa. St. 603; 7 Atl. 586.

Hartness vs. Brown, 21 Wash. 655; 59 Pac. 491.

Bower vs. State, 29 Ohio St. 542.

Moreover, when two parties are jointly interested and seek advice of an attorney, the communications are privileged as to both.

Rochefoucauld vs. Bonstead, 74 L. T. N. S. (Eng.) 783.

Chahoon's Case, 21 Gratt. (Va.) 822, 841.

1 Greenleaf on Evidence, Sec. 245.

Standard Fire Ins Co. vs. Smithhart (Ky.), 211 S. W. 441.

28 R. C. L., Sec. 155.

23 Am. & Eng. Ency. of Law (2nd Ed.) 65.

Murphy vs. Waterhouse, 113 Colo. 467; 45 Pac. 866.

Hageman on Privileged Communication, Sec. 75.

The fact that the communication between client and attorney is overheard does not release the attorney from his disqualification to testify, *although the party hearing is usually competent to testify.*

Hoy vs. Morriss, 13 Gray (Mass.) 519.
Goddard vs. Garner, 28 Conn. 172.

Statements made and advice given by the attorney are privileged.

23 Am. & Eng. Ency of Law (2nd Ed.) 56, 57.
Combe vs. London, 4 Y. & C. Exch. 139.
Woods vs. Woods, 4 Hare 83.
Richards vs. Jackson, 18 Ves. 472.
Lyell vs. Kennedy, 9 App. Cas. 81.
Churton vs. Frenen, 2 Drew & Son 394.
Ex parte Abbott, 7 Montreal Leg. N. 318.
Liggett vs. Glenn, 4 U. S. App. 438.
Jenkinson vs. State, 5 Blackf. (Ind.) 465.
George vs. Hurst, 31 Ind. App. 660.
People vs. Hillhouse, 80 Mich. 580.
Riley vs. Conner, 79 Mich. 497.
Erickson vs. Milwaukee etc. R. Co., 93 Minn. 414.
Matter of Whitlock (Supr. Ct. Spec. T.), 15 Civ. Pro. (N. Y.) 204; 51 Hun. 351.
Austin, etc., Mfg. Co. vs. Heiser, 6 S. Dak. 429.

Communications with view to employment within the rule, although the attorney should decline the case.

23 Am. & Eng. Ency. of Law (2nd Ed.) 63.
28 R. C. L., Sec. 145, p. 556.
Cromack vs. Heathcote, 2 Brod. & B. 4; 4 Mov. 357.

State vs. Tally, 102 Ala. 25.
Hawes vs. State, 88 Ala. 37.
Denver Tramway Co. vs. Owens, 20 Colo. 107.
Peck vs. Boone, 90 Ga. 767.
Brown vs. Matthews, 77 Ga. 1.
Young vs. State, 65 Ga. 525.
Thorp vs. Galway, 85 Ill. 611.
Helbig vs. Citizens' Ins. Co., 108 Ill. App. 624.
Wade vs. Ridley, 87 Me. 368.
Gusler vs. Garland, 11 Smed. & M. (Miss.) 136.
Cross vs. Riggins, 50 Mo. 335.
Nelson vs. Becker, 32 Nebr. 99.
Bean vs. Quimby, 5 N. H. 94.
Bacon vs. Frisbie, 80 N. Y. 394.
Ney vs. Troy (Suprm. Ct. Genl. T.), 13 N. Y. Supp. 679.
Surface vs. Bentz, 228 P. St. 610; 77 Atl. 922;
21 Ann. Cas. 215; 66 A. L. R. 216.
Hattness vs. Brown, 21 Wash. 655.
Bruley vs. Garvin, 105 Wis. 625.
Orton vs. McCard, 33 Wis. 205.

Rule protects all knowledge obtained from the relation whether by words, signs, acts or his own observations.

From Chew vs. Farmers' Bank, 2 Md. Ch. 210:
Head Note: "The rule that communications which a client makes to his legal adviser for the purpose of professional advice or aid, shall not be disclosed, stands upon such firm grounds of public policy, and is so well fortified by authority, that it would be impossible to contest it.

"Upon every such communication, made by a party to his counsel, attorney or solicitor, the seal of the law is placed and remains forever, unless removed by the party himself, for whose protection the rule was established."

GROUP TWO, SUB-DIVISION B.

II. *The Acts and Declarations of Appellant After the Night of August 23rd.*

Exceptions 9th, 73rd, 74th, 75th, 76th, 77th, 78th, 80th, 81st, 92nd, 93rd, 95th, 96th, 97th, 98th, 99th, 100th, 102nd, 103rd, 104th, 105th, 106th, 107th and 108th.

In the 9th Exception, the State proved by General Gaither on Saturday, August 26th, the appellant, who had been denied all access to his client, Keller, requested permission of General Gaither to see and talk to Keller, and that while he was willing, the State's Attorney's office was not. (R., 33, 34.)

The Sun reporter, Sherwood, had been told by the appellant on August 24th that the boy Keller, who was then in the hands of Captain Leverton, had valuable information about the Norris case; and Sherwood said to appellant: "Don't you suppose the police will arrest this boy the instant that he gets in their hands!" and the appellant excepted to the witness being asked what appellant's reply was, but the Court allowed the witness to answer: "He said something to the effect that he could get bail for him, if he was arrested." (73rd and 74th Exceptions, R., 221, 222.)

This was not referable to the alleged combination. The appellant was the attorney for Keller in the matter of the automobile, and in that connection Mr. Wolf was seeking for him the good-will and lenient treatment of the authorities, and his reply indicated how his client would be protected against confinement by the police as a result of the appellant's act in turning him over to the police.

The witness, Sherwood, was further allowed to testify over the appellant's objection: "Well, Mr. Wolf said as men frequently say to the newspaper reporting the thing. I don't want you to use my name in connection with it"; (76th Exception, R., 223-224); and that, when he inquired of him if he was to follow Leverton and the boy to the pond, appellant's reply was: "Well, he said, you just let your man follow Captain Leverton, something of that sort." (77th and 78th Exceptions, R. 224, 226). After the Sun had printed the story, suggesting that Keller had been put in to wreck the State's case, Sherwood saw Wolf and is permitted to testify to a marked change in the attitude and demeanor of the appellant, and the witness further swore:

"A. I think I said that the articles in the morning papers represent Mr. Leach as saying—now, I have difficulty in being exact about my words, but it was something to the effect that he was the whole head and front of the Norris case, something of that sort. Well, now that is not a good rendering of what I am trying to say. I think my words were about like this: The articles in the morning papers represent Mr. Leach as saying that you are the chief figure in this thing. Don't you think you ought to say something in justice to yourself? I am sure that was the sense, if not the exact words.

"Q. What things were you referring to?

"A. I meant the murder case and the attack. *I meant the attack on the State's case in the murder case.

"Q. What was Mr. Wolf's reply to that?

"A. He said, I thank you, Mr. Sherwood, I can take care of myself." (80th and 81st Exceptions, R., 229, 231.)

And then Tompkins, another Sun reporter, continuing to pester the appellant after he had been grossly and unfairly attacked, is given the privilege of saying that the newspaper office could not get in touch with Wolf on Thursday night; and on Friday morning (August 24th and 25th) appellant said "he had nothing whatever to say to me or to any one else connected with the Sun." (92nd and 93rd Exceptions, R., 245, 246.)

From this refusal to try his case in the newspapers, who were accusing him of being an arch malefactor, the State deduced an evidence of guilt, confounding the indignant silence of conscious innocence with that of guilty fear.

Wharton on Crim. Law (10th Ed.), Sec. 678b, et seq., 680, p. 1410.

And then Locke and Harwood are allowed to testify to a conversation the appellant had with them on Friday, August 25th. These two witnesses were the associate editor and the editor of the News and the American. They gave their version of Mr. Wolf's emphatic denial to them of any part in the alleged conspiracy and of any purpose to do anything except to aid the prosecution of the criminals. Mr. Wolf made no admission of guilt, but declared his entire innocence and showed how greatly he was affected by his unparalleled situation and by the combination of the press of Baltimore in a vigorous campaign against him.

Nor was this testimony in rebuttal, as the appellant had not testified. It is difficult to understand why these gentlemen went on the stand, except in emulation of, and to match the two witnesses on the part of the Sun and to

preserve the parity in public between competing papers. (95th, 96th, 97th, 98th, 99th and 100th Exceptions, R., 249, 258.)

His visit to the editorial web of The News was an impudent act, only justified by appellant's consciousness of innocence and the rectitude of his course. He could not speak freely to these gentlemen, for he was bound by his obligations of a lawyer to keep silent in respect to many things. His defense was, therefore, and necessarily, an incomplete one. He could not disclose the visit of Socolow to his house without being false to his obligation as a lawyer.

Publicly assailed in the press of Baltimore, his motives questioned, his honor attacked, and his right to a fair and impartial trial imperiled by the campaign relentlessly waged by powerful influence to encompass his personal and professional ruin, the appellant went with Mr. J. Abner Sayler, an attorney, and Mr. Stevenson, an assistant in the appellant's office, to the Central Police Station on Saturday, August 26th, to see Keller and hear from him what truth there was in the flying reports. What he did was perfectly proper and justified, yet it is twisted to serve as proof against him. With gusto the State presented the fact that some one, unknown to Wolf, Stevenson and Sayler, tried to attract the attention of the three from a far off station window, and that they tried to find out what the party wanted, but could not. (102nd, 103rd, 104th, 107th, 108th Exceptions, R., 260, 268). And in the 105th and 106th Exceptions, the State proved that Sayler at the request of the appellant, asked of Captain Burns what bail would be required of Keller. (R., 264, 266.)

In *Bloomer vs. State*, 48 Md., 521, 533, 534, where the conspiracy was in respect to the sale of stolen annual railroad passes and tickets, in which the conspirators inserted the names, the offer of one of the conspirators to buy back one of the fraudulent passes was rightly held admissible. The conspirator was after the tangible evidence against him, and no honest, creditable purpose could be ascribed to his act, except on the theory of restitution, which is in itself an avowal of guilt. (Wigmore on Evidence, Sec. 278.) The suppression of evidence, or an attempt, is quite a different matter from what was admitted against this appellant under the foregoing exceptions set out under this sub-division.

The report was in circulation through the agency of the press that the appellant was a criminal on the statement of his client, who was being held, as if in Spain, without being permitted to see or hold communication with any one, *i. e.*, *incommunication*.

Why should not the attorney especially want to see the accusing client under these circumstances? Why should he commit his explanation to newspapers which had falsely assailed him in print, without a word of inquiry or of warning? Why should an inference of guilt be drawn against the lawyer, who was faithful to his ethical obligation of silence to his own hurt? When this testimony was permitted the trial Court knew the appellant's reasons for his conduct. They were so patent they did not require the poor service of a statement. As Wigmore writes:

"The general principle of Relevancy tells us that inference of assent may safely be made only when no other explanation is consistent with silence." 2 Wigmore on Evidence, Secs. 1071, 1072 (3), (4).

In the 75th Exception the witness, Sherwood, a reporter on the Evening Sun, was asked the question:

"Q. Now, then did Mr. Wolf give you an account or partial account of the Norris murder?" (R. 222.) This question was objected to on the following grounds:

1. It related to a matter which occurred before the alleged conspiracy was formed, and its answer could reflect no light on anything said or done in the course of the conspiracy or in the prosecution of the design of the conspirators.
2. It was pure hearsay, as the appellant did not see the assassination.
3. It did not indicate the source of his information, and there were quite a number who witnessed the crime.
4. It was not in contradiction as Wolf had not testified when the question was asked.
5. It was an irrelevant and immaterial conversation whose date was not fixed.

Yet the question was allowed to be asked and answered, apparently on the theory announced by the Court on page 263 of the Record:

"A. He said he was a sharp little boy.

(Mr. Parke) Is this in furtherance of the conspiracy?

(The Court) *Whatever Mr. Wolf does is in furtherance of the conspiracy, yes. That is all admissible*" (R. 263).

The witness replied to the question in the 75th exception:

"Oh, he said something to the effect that the man who shot Mr. Norris, that, as I remember it, it was something like this, the man who shot Mr. Norris stood in front of him and said, stick them up, stick them up, and Norris was slow about doing it and there was some scuffle, then Norris kicked the man and then the man shot him" (R. 223).

The date of this conversation between the reporter and appellant is most material, as the appellant did not see either Keller or Socolow until the night of Wednesday, August 23rd. The State did not fix the date when the testimony was introduced, and Sherwood was unable to give it when this information was sought, stating, "Well, I am not sure when he told me that."

"Q. Well, what is your best impression and recollection? A. The best that I can do is to say that I did not see Mr. Wolf until Monday, which was the 21st of August, I think it was, and the last time I saw Mr. Wolf was Friday, the 25th, and it was sometime between those two dates,"

but that he had not told him on Friday, and had not seen him on Wednesday (R. 223, 236). And the witness is not able to say that what appellant told him had not previously been in the public press, but does know that he has "heard two versions very much like that since" (R. 236).

This irrelevant, collateral and immaterial testimony was pounced upon by the State, with an avidity in direct proportion to their distressful lack and need of testimony, as convincing proof that Wolf was a conspirator. It was vehemently argued that none but one in guilty association with Socolow and Keller could have this information. Conjecture and speculation usurped the place of proof in

the reasoning of the State. The prosecution could not say *how* Wolf got the story, but, no matter the source, it established him a scoundrel.

Cross vs. State, 118 Md. 667, 668.

GROUP TWO, SUB-DIVISION C.

Acts and Declarations of Third Parties in the Absence of Wolf.

30th, 89th and 90th Exceptions.

In the 30th exception is presented the admissibility of Detective Burns' statement that on Thursday, August 24th, he went before the Grand Jury with reference to the indictment of Smith, Carey, Socolow, Hart, Allers, Blades and Heard (R. 54). This was prejudicial and irrelevant.

In the 89th and 90th exceptions, the relation on August 24th by Captain Leverton to Tompkins, the Sun reporter, of what Keller had said to the Captain in Wolf's absence was permitted (R. 241, 242). It was hearsay testimony of an injurious nature, and irrelevant.

By reason of the manifold errors on this record, we respectfully submit there should be a reversal so that at one time the rules of law and of evidence may be vindicated and justice be done to the appellant.

THOMAS H. ROBINSON,
F. NEAL PARKE,
H. WEBSTER SMITH,
GERALD W. HILL,
SAMUEL K. DENNIS,

Attorneys for Appellant.

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THOMAS B. WALKER,)
 Plaintiff,)
 vs.)
 JOHN B. WALKER,)
 Defendant.)
 STATE OF MARYLAND,)
 Appellate Department.

PLEA FOR APPEAL

That the appellant is a citizen of the State of Maryland, who has been convicted and sentenced to imprisonment for a term of years by the Circuit Court for the County of Baltimore, and that the respondent is a citizen of the State of Maryland.

STATEMENTS

The appellant was indicted by the grand jury of the County of Baltimore for the crime of larceny, to-wit: for the taking and carrying away of the property of another, to-wit: the sum of \$100.00, the property of the respondent, on the 10th day of June, 1910, at Baltimore, Maryland. The appellant was tried at the Circuit Court for the County of Baltimore, and was convicted of the crime charged in the indictment, and was sentenced to imprisonment for a term of years, to-wit: for the term of years and a day. The appellant appeals from the judgment of the Circuit Court for the County of Baltimore, and prays that the same be reversed, and that the appellant be discharged from the punishment imposed upon him by the Circuit Court for the County of Baltimore.

HARRY B. WOLF,
Appellant,
vs.
STATE OF MARYLAND,
Appellee.

IN THE
Court of Appeals
OF MARYLAND

APRIL TERM, 1923.

GENERAL DOCKET No. 16.

BRIEF FOR APPELLEE.

This is an appeal from a judgment of the Criminal Court of Baltimore, whereby the appellant was fined in the amount of One Hundred Dollars and costs, upon conviction of the offense of conspiracy.

STATEMENT.

The appellant was indicted jointly with Walter Socolow and John Keller. The indictment contains nine counts, each charging conspiracy. The substance of the charge is: That the State's Attorney for the City of Baltimore and the Police Commissioner of that City and the members of the Police Department thereof having, after an extensive investigation, secured the evidence necessary to establish the identity and secure the indictment and prosecution of those guilty of the robbery and murder of one William B. Norris, which occurred on August 18th, 1922, in which evidence was included the confession of one Allers, which, with corroborative evi-

dence then in hand, established the guilt of said Allers and of Charles P. Carey, John L. Smith, James Hart and Walter Socolow, the persons charged (Wolf, Socolow and Keller) conspired on August 23rd, 1922, to impede and obstruct the due administration of justice in the investigation and consideration by the Grand Jury of the charges against the above named persons, well knowing that the State's Attorney was about to lay the said evidence before the Grand Jury, and to impede the Grand Jury in its investigation, consideration and action in the premises and to hinder the prosecution of the above named persons and to destroy the faith which the State's Attorney and police authorities placed in the results of their investigation and to discredit and nullify the confession of Allers and thereby mislead the said authorities in their endeavors to bring the above named persons to indictment and trial for the crime perpetrated by them as aforesaid.

This is the gist of the principal allegations of the indictment. It is impracticable to set forth in full, or even to summarize, all the allegations therein, but other allegations, omitted from the above summary, may be referred to in the course of this brief as occasion arises.

A severance having been granted to John Keller, upon his motion and the assent of the State, a demurrer was filed to the indictment and to each count thereof, which demurrer was overruled, and the defendants Wolf and Socolow then submitted under a plea of not guilty before Judges Gorter, Bond, Duffy, Stanton and Stein.

A verdict of guilty having been rendered as to both the defendants last above named, and a motion for a new

trial and motion in arrest of judgment having been overruled by the Supreme Bench of Baltimore City, the appellant was fined as above set forth and forthwith appealed from the judgment imposing that fine.

ARGUMENT.

The action of the Supreme Bench of Baltimore City in overruling the motion for a new trial is, of course, not before this Court, nor can the action of the Supreme Bench in overruling the motion in arrest of judgment be considered here, as that motion is not set forth in the record. The action of the Criminal Court of Baltimore in overruling the demurrer is, we understand, not seriously questioned upon this appeal, and it would seem reasonably clear that this action was correct in view of what was said as to the offense of conspiracy in *State vs. Buchanan*, 5 H. & J. 317, 351. We shall, therefore, say nothing further upon this point, but shall proceed at once to discuss the facts developed upon the actual trial of the case, the general principles of law applicable to various phases of the evidence, and such of the individual exceptions as it seems necessary to consider. Before commencing this discussion, it may be well to call the attention of the Court to the fact that there are, in all, one hundred and twenty exceptions, contained in a record which covers more than four hundred printed pages. In order to lessen, so far as possible, the labor of the Court in referring to this record, to the several exceptions and to the testimony of the various witnesses, we have prepared an index, which will be printed as an appendix to this brief.

The evidence produced on the part of the State tended to show that Mr. William B. Norris was murdered about 9.30 A. M. on August 18, 1922, at Park avenue and Madison street, in Baltimore City; that Walter Socolow committed the murder by shooting Mr. Norris with a pistol, and that Hart, Carey, Smith and Allers were all present, aiding and abetting the crime. That Harry B. Wolf visited General Gaither, Police Commissioner of Baltimore City, on the day of the murder, and after it had been committed, and expressed a willingness to assist the Police Department in finding the perpetrators. That, immediately after the murder was committed, the Police Department sought Hart, Socolow, Smith and a man named Lewis, of whom Smith and Lewis were apprehended on the afternoon of the same day on which the crime was perpetrated; that Mr. Wolf called at the station house to see Smith (it will be seen from his own testimony that he also saw Carey), asked the Captain of Detectives when these men would have a hearing, and told him that he had the wrong men; that on August 22 Allers surrendered and that early the next morning he confessed the crime and implicated certain of his accomplices, including Smith, Carey and Socolow; that from the day of the crime (Friday, August 18th) until the following Wednesday (August 23rd) Socolow and Hart were in hiding in Baltimore City, and that during a considerable part of that time John Keller was in their company; that on the evening of Wednesday, August 23rd, Hart having fled from Baltimore that day, Socolow and Keller went to the home of Mr. Wolf, that Socolow asked Mr. Wolf to defend him, which Mr. Wolf declined to do, that in the course of conversation Socolow men-

tioned that Keller was wanted on an automobile charge, that Keller suggested to Mr. Wolf that he (Keller) tell the police a false story to the effect that Allers had induced Keller to dispose of a cash box taken from Mr. Norris, and that he heard Allers say that he was "framing" Socolow; that Wolf assented thereto, and, in pursuance of the arrangement then made, Wolf that night called up Captain Leverton of the Baltimore Police Department and asked him to call the next morning at his (Mr. Wolf's) office, where he introduced him to Keller, who guided Captain Leverton to the place of concealment of the said cash box and the license tags used on the automobile in which the murderers escaped from the scene of the crime; that thereafter Keller, having established himself (or thinking he had established himself) in the confidence of Captain Leverton, and also in the confidence of the public at large, through the newspapers, proceeded to tell members of the Police Department the story previously agreed on between Keller, Socolow and Wolf—that is, to use the words of Keller, "about Allers taking me to the box instead of Hart and Socolow, and that I heard Allers say he was framing Socolow" (Rec. 100), or, as Captain Leverton says, was framing Socolow, Smith and some others (Rec. 204), or, according to Captain Hurley, Socolow, "Wiggles" (meaning Smith) and Carey (Rec. 70); that Keller referred to Allers as a man whom he knew only under the name of "Chicago," and that he afterwards identified Allers at the Central Police Station as the man referred to in his narrative under the name of "Chicago." That Keller was detained in custody at the Central Police Station, when Wolf, after the substance of his story to the police had appeared in the public prints, attempted to communicate with him. There was also evidence to the effect that, dur-

ing the visit of Socolow and Keller to the home of Mr. Wolf, Detective Hammersla of the Baltimore Police Department called at Mr. Wolf's home, and, in the course of conversation with Mr. Wolf, sought his assistance in the capture of those concerned in the murder of Mr. Norris who were then still at large, and that Mr. Wolf told him that he would give him any assistance in his power. Evidence was also given of conversations held by Mr. Wolf with various persons connected with newspapers, especially the conversation which he held with Mr. Locke and Mr. Harwood of the Baltimore News, in which, according to Mr. Locke, Mr. Wolf told him that Keller had called at his office on Wednesday afternoon—the fact being, as is conceded, that Keller called at his home on Wednesday night.

We think that this outline shows the principal points of the evidence adduced by the State, which covers about two hundred and fifty pages of the printed record.

Much of this testimony was confirmed, and much was contradicted, by the testimony on the part of the defence. The appellant, whose testimony was in part corroborated by members of his family and household and by his associate in the practice of law, Mr. Stevenson, and his clerk, Mr. Meyler, testified to the following effect: That, having learned on Friday, August 18th, of the murder of Mr. Norris, which was committed on that day, he went that evening to General Gaither and offered to give him any assistance consistent with his professional duty to respect the confidence of his clients, and then proceeded to tell General Gaither of certain information which he—Mr. Wolf—had received as to the presence in Baltimore of some non-residents whom he—Mr. Wolf—sus-

pected of having committed the crime, with their names, so far as known to him, the kind of cars in which they were travelling, and their movements in the early morning of the day of the murder. That on the night of the same day Mr. Tompkins (of the Baltimore Sun) called on him, and that he gave Mr. Tompkins the same information which he had previously given to General Gaither, and suggested a line of investigation based on that information. That he talked with Captain Leverton that night, gave him the same information which he had given to General Gaither and Mr. Tompkins, and suggested that Captain Leverton follow up that information. That afterwards he made suggestions, from time to time, to Mr. Tompkins and Mr. Sherwood (also of the Baltimore Sun). That on the day after the murder he saw various men who were being held by the police for investigation (including Smith, Carey and Lewis) and told them that he would not represent any of them if "they"—presumably the police authorities—told him that they had "anything on them." That some days later he talked with Mr. O'Connor (Assistant State's Attorney) about these men, and was assured that they would be released on the Monday following if no definite cause for holding them should appear before that time. That on the night of Wednesday, August 23rd, while he was at the dinner table with members of his family, his sister-in-law (Clara Cohen) having answered a ring of the doorbell, came back to announce the call of two terrible looking or two wild looking men, that he told her to let them wait in the reception room, to which, after finishing dinner, some half-hour later, he went to meet them; that, on seeing these men—Socolow and Keller—he was much excited, and, on turning, saw that he had been joined by his wife, who was in a highly nervous

state; that he resolved to keep cool, and took Socolow and Keller back to the kitchen to wash up and get something to eat, and walked into the yard with his wife, trying to quiet her; that afterwards he ushered Socolow and Keller into the dining-room and told his butler, George Taylor, to be on hand in case of trouble; that immediately after this Detective Hammersla called; that, in conversation with Detective Hammersla, the only reference made to the Norris murder (so far as witness recalls) was the reference to Allers, when Mr. Wolf said that he "did not believe that any of our Baltimore boys would do anything like that." As to Mr. Wolf's conversation with Socolow and Keller, his version is that nothing was suggested as to Keller telling any false or misleading story to the authorities, that he (Mr. Wolf) declined to represent Socolow, that Keller told him that he wanted to see him the next day about a charge pending against him (Keller) relating to the theft or unlawful use of an automobile, but that witness supposed this to be a mere excuse for coming to his office in order to make some revelation with regard to the Norris murder case, with which he suspected Keller of being connected. He said that he feared that if he should tell Detective Hammersla of the presence of Socolow and Keller, this revelation would lead to shooting in his (Mr. Wolf's) home, and also that he felt himself prevented by his professional duty from disclosing to Detective Hammersla or to Captain Leverton the fact that Socolow had called at his home; that he introduced Keller to Captain Leverton in order to assist Captain Leverton in his work on the Norris murder case; that Mr. Locke was mistaken in his statement that witness had told him that Keller called to see him on Wednesday evening, that witness really told Mr. Locke that Keller called on him on Wednesday

night, that he tried to see Keller at the police station in order to learn from him whether he had really made to the authorities the statement, involving him (Mr. Wolf), which appeared in the papers.

We have endeavored in the above summary to set forth as fairly and at the same time as succinctly as possible the substance of the more important testimony offered by the respective parties. In dealing with a record of this length, in which, moreover, none of the questions and answers have been previously summarized by being reduced to narrative form, it has not been found practicable to give even the substance of all the testimony, and it is also possible that there are some instances in which the statements contained in the above summary may be more properly classed as matters of inference from the testimony than as the substance of the testimony itself. The Court can, of course, judge of this by comparing the above summary with the record.

II.

The principles applicable to the ruling presented by the various exceptions must, of course, be considered in the light of the theories of the respective parties. The theory of the State was that Mr. Wolf, a lawyer with an extensive practice in the Criminal Court, as well as in other Courts, became the adviser of Carey and Smith immediately after they were arrested; that on one or two previous occasions he had acted as the attorney of Socolow; that from the very day on which the murder was committed he sought to mislead the authorities and the public in general, and prepared to carry out this purpose both by statements made to the Police Commissioner and to representatives of the press, that he

promptly adopted the suggestion of Keller and agreed with Keller and Socolow that the method of misleading the police, so suggested, should be pursued; that he introduced Keller to Captain Leverton with this end in view; that it was through his co-operation with Keller that the latter's misleading statements were spread before the public in the press; that, after Keller's detention, he sought an opportunity to see him with the object of suppressing the testimony which Keller was prepared to give against him; and that his plan was to aid the murderers by surreptitious methods, while refusing to appear publicly in their behalf.

The theory of the defense seems to have been that the appellant, in his communications with the authorities and with the newspaper reporters, was actuated by a genuine desire to assist in the detection and apprehension of the murderers; that he entered into no arrangement with Socolow and Keller and refused to aid the former in any way; that he did not inform Detective Hammersla of the presence in his home of Socolow and Keller because (aside from his fear that such information would lead to shooting in his home) he thought himself deterred from that course by considerations of professional propriety, and that he also failed to inform Captain Leverton that Socolow and Keller had just left his home for the same reason, that is, that he did not think that his duty as a lawyer permitted him to give that information; that he requested Captain Leverton to be at his office the next morning because he expected Keller to make revelations to him (Mr. Wolf) at that time, which, if communicated to Captain Leverton, might lead to the arrest and conviction of some of the murderers of whom he knew Socolow to be one; that the next

morning, when Keller told him that he knew where the box and tags were, he introduced him to Captain Leverton in order that he might be of assistance in causing the apprehension of the fugitives; that, during Keller's detention, he sought an opportunity to converse with him for the sole purpose of learning whether Keller had really made the statements reflecting upon his (Mr. Wolf's) conduct which Keller was reported to have made.

The question of legal ethics which was to some extent involved in the trial of this case below and which entered to a much greater extent into the discussion of the disbarment proceedings which grew out of the same facts is, perhaps, strictly speaking, not before this Court, but it is difficult, if not impossible, to discuss the issues involved without at least touching upon that question. Counsel for the appellant, in a brief filed in the disbarment proceedings, cited many cases, which they may also cite upon this appeal, in support of the proposition that an attorney is never at liberty to disclose a confidential communication made to him by his client. Among other communications from attorney to client which some of these cases hold to be within the rule is the communication of the client's address made by one who is a fugitive from justice. It may shorten the labors of the Court, if we say at once that we do not dispute the proposition supported by these authorities. We think it proper to point out, however, that nearly all of these authorities are concerned with communications actually made to the attorney, either verbally or by letter. None of the cases cited, so far as we have seen, lays down the proposition that an attorney cannot inform the authorities that he has seen a fugitive from justice at such and such a time

and place, even though the occasion of his seeing him was the fugitive's desire to consult the attorney in his professional capacity. We know of no cases in which this precise point has been decided either one way or the other. The case which is perhaps most pertinent is that of *Thornton vs. Davis*, 4 Cranch C. C. 500, where an attorney was acquitted of having agreed for a pecuniary consideration to discover the whereabouts of his fugitive client. The proceedings were dismissed, the charge not being supported by the evidence. It is plainly apparent, therefore, that the point here discussed was not decided.

It may well be contended that facts ascertained, under any circumstances, by an attorney from the evidence of his own senses and not from any words of his client, whether spoken or written, are "not * * * communications from the client to the legal adviser at all, but information which the latter has acquired, independently of any such communication."

Chew vs. Farmers' Bank, 2 Md. Ch. 231, 241.

Quoted in—

Lanasa vs. State, 109 Md. 602, 618.

Assuming, however, without conceding, that professional ethics bound Mr. Wolf to preserve the strictest silence as to the fact of his having seen Socolow and the time and place at which he had seen him, there can be no doubt that neither this nor any other rule of ethics would justify him in furthering Socolow's escape or in assisting another person to further such escape or to do anything which, by misleading the authorities, would tend to effect his escape from arrest or conviction.

Wigmore, after referring to "the need of confidence on the part * * * of those who, being already wrongdoers in part or all of their cause, are seeking legal advice suitable for their plight," continues:

"But these reasons all cease to operate at a certain point, namely, where the desired advice refers not to prior wrongdoing, but to future wrongdoing."

Wigmore on Evidence, Sec. 2298.

"The respondent (attorney) informs his client that he had obstructed the district attorney of this county in the performance of his duty by making false statements as to his knowledge of Stade's (the client's) address, and proposed to further obstruct him in the performance of his duty by procuring a letter which he understood would fall into the hands of the district attorney to be published in Buffalo for the avowed purpose of throwing the authorities off the track. The respondent had represented Stade as his counsel. He had, of course, the right to advise Stade as to the course that he should adopt which would best protect his interests. When called upon by the public authorities for information as to Stade, he had the right to refuse to answer any questions as to a fact which had been communicated to him by his client, or which he had ascertained in the course of his professional employment. But he certainly was not justified in giving the district attorney or the public authorities false information or mis-stating facts which would obstruct the district attorney in the performance of his duties, or to do any act which would assist any person charged with a crime escaping prosecution therefor, or prevent or obstruct the officers of the law from performing their duties.

"I wish to clearly emphasize the fact that this offense is not that the respondent gave to his client

advice, but that this attorney proposed to his client that he, the attorney, would, if furnished with money, bribe or endeavor to bribe a police officer to refrain from discharging his duty, and that, if furnished with a decoy letter, he, the attorney, would cause it to be posted at a place in New York State, so that, when it was received by the public authorities, they would be thrown off the track. It was the act that the respondent, an attorney and counsellor at law, himself proposed to do that constitutes the offense, not any advice that he gave to his client as to what his client should do; and it is this offense that we are called upon to consider."

In re Billington, 141 N. Y. Supp. 16, 21.

In justice to Mr. Wolf, it should be admitted that he did not maintain at any time that it was his duty or his right to do any positive act to assist in the escape of Socolow or of anyone else who was concerned in the murder of Mr. Norris. He did not admit that he introduced Keller to Captain Leverton for any such purpose. On the contrary, his testimony clearly implies, if it does not expressly assert, that, although he felt bound to keep locked in the profoundest secrecy the fact that Socolow had visited his home on Wednesday night, he introduced Keller (who had accompanied Socolow on that occasion) to Captain Leverton on the following morning for the express purpose of giving Keller an opportunity of divulging information which would lead to the conviction of the murderers of Mr. Norris, of whom he knew Socolow to be one. The line of demarcation between the course of conduct which Mr. Wolf scornfully repudiates and the course which he quite openly—not to say proudly—avows may seem to some to be definite, but we must admit that to us it seems pretty shadowy.

We now come to the consideration of certain questions of law which deal with specific phases of the testimony. These questions are concerned with:

- A. Evidence as to facts preceding the date of the conspiracy, as alleged in the indictment.
- B. Evidence of the acts and declarations of the alleged co-conspirator, Keller.
- C. Evidence as to events which occurred subsequent to the confession of Keller and after his detention had begun.
- D. Corroboration of Keller and the necessity for such corroboration.
- E. Remaining questions.

A.

1. It was essential for the prosecution to establish, first, the facts creating the situation out of which the conspiracy itself and the reasons for a conspiracy developed. The indictment alleges and it was proper to prove that the Norris murder had occurred on August 18th, 1922; that the police authorities of Baltimore City immediately instituted a most vigorous investigation which pointed the finger of suspicion toward a group of men living in East Baltimore, including Socolow, Hart, Smith and Carey; that during the day of the murder, Smith and Carey were apprehended and held pending further investigation. It was also vitally important for the State to prove, as it did prove, that Allers, who had spent Sunday, August 20th, in Atlantic City, voluntarily surrendered to the authorities on Tuesday, August 22nd, and that shortly thereafter Allers made a full confession in

which he declared that Hart, Socolow, Smith, Carey and himself had been present and had participated in the robbery and murder of Mr. Norris, and that the fatal shots had been fired by Socolow. It was also necessary to prove, and was proven, that the story of Aller's confession was published in the Baltimore papers on the afternoon of Wednesday, August 23rd; and that this story, as it appeared in the Evening Sun, was read by Socolow several hours prior to his visit to the home of Mr. Wolf. Without proof of these facts, the State would have failed to establish the setting of the conspiracy charged in the indictment and to show the relationships to the Norris murder sustained, respectively, by Wolf, Keller and Socolow and the reasons influencing each of said parties to combine in the formation of the alleged conspiracy. It is doubtful whether it will be seriously contended in behalf of the appellant that this testimony was objectionable.

Certain facts other than those enumerated above, falling within the general heading which we are now discussing, may be grouped, and for the purposes of argument discussed together.

2. One of such groups embraces testimony which tends to establish the fact that, shortly after the commission of the murder, Mr. Wolf became the attorney of Carey and Smith. This evidence, we submit, was admissible as tending to show motive. The motives which might be supposed to actuate any attorney with an extensive practice in the Criminal Court in attempting to prevent the arrest or conviction of members of an organized gang will readily suggest themselves to anyone familiar with conditions in any densely populated community.

Of such motives, however, evidence cannot readily be procured, but evidence tending to show that such an attorney or any attorney acted in that capacity (as adviser or otherwise) for members of such a gang accused of a specific crime is certainly relevant on the question whether he conspired to prevent the conviction of the various members of that gang who are shown to have committed that crime.

3. Another group which falls within this general classification relates to a conversation between the appellant and Commissioner Gaither and conversations which he held with representatives of the press. In these conversations he evinced a willingness to assist in the detection of the culprits and expressed the opinion or made statements calculated to convey the impression that the murder was committed by non-residents of Baltimore. It was, of course, for the Court, sitting as a jury, to pass on the effect of this testimony, and to determine whether the statements of Mr. Wolf to which it related resulted from a genuine conviction or from a desire to mislead the authorities and the general public. Upon the latter supposition, there is more than one theory upon which this testimony would be admissible. It might be contended that it was admissible as tending to show preparation.

"Evidence of preparation is always admissible for the prosecution; evidence to explain it is always admissible for the defense. Among the facts admissible as affording in this way a basis of induction are the purchasing, the collecting, the fashioning instruments of mischief, of which numerous cases are elsewhere given, and of which a familiar illustration is to be found in the admission of evidence on a trial for burglary to prove that the de-

feudant had manufactured or procured the burglarious instruments. Under the same head fall cases where the evidence shows a repairing to the spot destined to be the scene of crime; and acts done with the view of paving the way to the guilty enterprise. For the same purpose it is admissible, on an indictment for arson, to prove a prior insurance of the property, as well as other attempts to destroy it, the object being to defraud the underwriters.

"To rebut the inferences arising from such apparent preparation, the accused may give in evidence any circumstance tending to show innocent motives. Thus, the accused may show that the apparent preparations were in expectation of trouble with a party now deceased, or he may show that it was his custom to carry weapons; and his declarations or explanations at the time of his preparations are admissible in his own behalf.

"The relevancy of such evidence cannot be limited by, nor encompassed within, the statement of any particular rule. Both in admissibility and in rebuttal the extent of such testimony can be limited only by the ramifications of human conduct. While no two cases are exactly alike, the principle is the same, namely, that any conduct or action of the accused in connection with the offense, not too remote, is admissible, from which there may come a logical inference of intent, preparation, premeditation, or motive, to commit the offense charged."

2 Wharton's Crim. Evid., Sec. 753 (pp. 1499-1501).

In the state of proof presented in the instant case, it cannot, perhaps, be said that the evidence now under discussion tended to show preparation on the part of the appellant to engage in a conspiracy first suggested,

so far as the evidence shows, by one of the other parties thereto. But the course of conduct pursued by him was a most suitable preparation for doing that which he afterwards sought to accomplish by means of the conspiracy.

The natural effect of Mr. Wolf's representations that he was willing to co-operate with the Police Department and the newspapers in the discovery of Mr. Norris's murderers would be to establish in the minds of Commissioner Gaither and of the newspaper men a state of confidence. He had reason to expect that, from the day of his first conversations with them, they would be inclined to accept his suggestions and to furnish him with information. In these first conversations he suggested that the murder was not committed by residents of Baltimore and thus paved the way for future suggestions of the same sort. It so happened that Keller, with his story about "Chicago" and "Boston," presented himself as an instrument through which such suggestions could be made; they might have been made and doubtless would have been made either directly or through some other instrument, if Mr. Wolf had never seen Keller.

It would seem, however, that a better ground (perhaps we might more properly say a broader ground) on which to base the admissibility of this evidence is its tendency to show intent. In Sec. 302 of Professor Wigmore's *Work on Evidence*, under the head of "Theory of Evidencing Intent," the learned author says:

"The argument here is purely from the point of view of the doctrine of chances,—the instinctive recognition of that logical process which eliminates the element of innocent intent by multiplying in-

stances of the same result until it is perceived that this element cannot explain them all. Without formulating any accurate test, and without attempting by numerous instances to secure absolute certainty of inference, the mind applies this rough and instinctive process of reasoning, namely, that an unusual and abnormal element might perhaps be present in one instance, but the oftener similar instances occur with similar results, the less likely is the abnormal element to be the true explanation of them. Thus, if A while hunting with B hears the bullet from B's gun whistling past his head, he is willing to accept B's bad aim or B's accidental tripping as a conceivable explanation, but if shortly afterwards the same thing happens again, and if on the third occasion A receives B's bullet in his body, the immediate inference (*i. e.* as a probability, perhaps not a certainty) is that B shot at A deliberately; * * *"

Wigmore on Evidence, Sec. 302.

Per Taft, C. J. (5th Circuit):

"It is a well established rule of evidence that, where the issue is the fraud or innocence of one in doing an act having the effect to mislead another, it is relevant to show other similar acts of the same person having the same effect to mislead, at or about the same time, or connected with the same general subject-matter. The legal relevancy of such evidence is based on logical principles. It certainly diminishes the possibility that an innocent mistake was made in an untrue and misleading statement, to show similar but different misleading statements of the same person about the same matter, because it is less probable that one would make innocent mistakes of a false and misleading character in repeated instances than in one instance."

Penn. Mut. Life Ins. Co. vs. M. S. B. & T. Co.,
72 Fed. 413, 422.

"The acts and conduct of a person relating to the main act or transaction, occurring before, at the time of and after such act or transaction, if not so remote as to have no logical bearing thereupon, are competent evidence to prove his intent therein."

7 Encyc. of Evidence, p. 625.

On a prosecution charging defendant with an assault on the prosecuting witness with a pistol with intent to kill, testimony that the defendant and prosecuting witness had a difficulty a few days before, and that the defendant then put his hand in his pocket as if to draw a weapon, was held competent as tending to prove the wilfulness of the act charged in the indictment *and the intent with which it was done.*

State vs. Mounce, 106 Mo. 226.

"When it has been shown that the party charged has done the act for which he is indicted, the question still remains, whether he committed it with guilty knowledge or whether he acted under a mistake; and evidence which tends to prove that he was pursuing a course of similar acts, raises a presumption that he was not acting under a mistake, but with a guilty knowledge *and intent, and is admissible for that purpose.*" (Italics ours.)

Bell vs. State, 57 Md. 108, 114.

See also—

Freud vs. State, 129 Md. 636, 644;

and notes in—

62 L. R. A. 214;

43 L. R. A. (N. S.) 668, 755, 774 and 778.

To apply the above:

If the testimony of Wolf's introduction of Keller to Leverton and of Keller's subsequent misleading statement (independent of its effect as corroboration of Keller—a subject with which we shall deal in another part of this brief)—were to be considered as a single instance of an effort to mislead the authorities, it might be susceptible of an innocent explanation, but, when it is coupled with the testimony as to his conversations with General Gaither and the newspaper men, which also, considered by itself, might be compatible with the hypothesis of innocence—it becomes much more difficult to adopt that hypothesis. The minds of different individuals may still differ as to the legitimate conclusion, but that an opportunity to pass upon the question should be afforded to such individuals, composing the jury or the Court sitting as a jury, is as clear as any proposition of the kind can well be.

B.

Other exceptions relate to rulings of the trial Court the propriety of which rests on the fact that the testimony admitted relates to the acts and declarations of accomplices. Such evidence is always admissible as against any party to a proven conspiracy.

"The evidence supporting a conspiracy is generally circumstantial; it is not necessary to prove any direct act, or even any meeting of the conspirators, as the fact of conspiracy must be collected from the collateral circumstances of each case. It is for the Court to say whether or not such connection has been sufficiently shown, but when that is done the doctrine applies that each party is an agent for all the others, so that an act done by one, in furthering the unlawful design, is the act of all, and a declara-

tion made by one, at the time, is evidence against all."

2 Wharton's Crim. Evid., Sec. 698 (pp. 1432-1433).

It may be objected that this evidence was introduced before the fact of the conspiracy had been proved, but this objection is untenable.

"Order of testimony in conspiracy.—As it sometimes may interfere with the proper development of the case to require the trial to begin with proof of the conspiracy, in such case the prosecution may, on the trial, prove the declarations and acts of one made and done in the absence of the others, before proving the conspiracy between the defendants, though such proof will be treated as nugatory unless the conspiracy be afterwards independently established."

2 Wharton's Crim. Evid., Sec. 698a (p. 1435).

"In prosecutions, however, for criminal conspiracies, the proof of the combination charged must almost always be extracted from the circumstances connected with the transaction which forms the subject of the accusation. In the history of criminal administration, the case is rarely found in which direct and positive evidence of criminal combination exists. To hold that nothing short of such proof is sufficient to establish a conspiracy, would be to give immunity to one of the most dangerous crimes which infest society. Hence, in order to discover conspirators, we are forced to follow them through all the devious windings in which the natural anxiety of avoiding detection teaches men so circumstanced to envelope themselves, and to trace their movements from the slight, but often unerring marks of progress, which

the most adroit cunning cannot so effectively obliterate, as to render them unappreciable to the eye of the sagacious investigator."

Comm. vs. McClean, 2 Parsons (Pa.) 367, 368.

Quoted in—

Wright on Crim. Consp., p. 213.

The question is, however, definitely settled in this jurisdiction.

"It does appear that, at the time this paper was submitted to the jury, no evidence had been introduced to connect the appellant with McCauley, or with the commission of the offense charged in the indictment, and it does not appear from the record, that the offer of the paper was accompanied by an offer to follow it up with further evidence, tending to prove a conspiracy or combination between McCauley and the appellant, to produce an abortion upon Louisa Ross. If such an offer had accompanied the offer of the paper, the latter would have been properly admissible, and if the State had failed to introduce further proof tending to connect the appellant with the crime, the Court would, on motion of the appellant's counsel, have withdrawn said paper from the jury, and instructed them not to consider it in making up their verdict. The record shows, however, that evidence was introduced during the progress of the trial, to prove that there was a conspiracy between McCauley and the appellant, to produce an abortion upon Louisa Ross. One of the witness swore, that the appellant told her in June, that she expected a girl from Beaver Creek, to arrive at her house to be operated upon, to have her baby put away, but did not state the name of the girl. It was further proved, that on the evening of the day, on which Louisa Ross left her home, she was seen in company with McCauley in Hagers-

town, going in the direction of the appellant's house, and that she remained at the appellant's house until the time of her death. It further appears in proof, that McCauley went to summon a doctor to attend her at the appellant's house, that an abortion was there produced by the appellant, and that McCauley went to the house and carried the child away. All these facts were testified to, and they tended strongly to prove a conspiracy between McCauley and the appellant, and if they had been proved before the paper was offered, there can be no question that the paper would then have been legally admissible. So, as we have before said, would it have been admissible if the offer of it, had been accompanied by an offer, to follow it up with further proof to show the conspiracy and combination between the parties jointly indicted. The paper being inadmissible at the time it was offered, solely upon the ground of a want of a formal offer to follow it up with further proof, its rejection at that stage of the trial, would have only had the effect of postponing its introduction to a later stage of the trial, when the evidence of the conspiracy we have referred to, had been introduced. As it would have been clearly admissible after the introduction of such proof, and such proof was submitted to the jury, we are of opinion that the appellant was not injured by the admission of the paper at the particular time when it was admitted, and that the judgment ought not to be reversed upon this ground."

Hays vs. State, 40 Md. 633, 648-650.

It may be urged on behalf of the appellant that the evidence did not prove a conspiracy, and that, therefore, the evidence of the acts and declarations of a co-conspirator should not have been submitted to the Court sitting as a jury, even at the conclusion of the case. But, even in a case where this question was raised by motion to

strike out such evidence, same having been admitted subject to exception, this Court spoke in no uncertain terms:

"There were no exceptions to the rulings of the Court admitting the evidence produced by the State, but it was objected to, and was admitted subject to the right of the defendant to move to strike it out, on the ground that it was not admissible until *prima facie* evidence of the conspiracy had been produced, and to strike out the evidence of the accomplice, Elliott, on the ground that it was not corroborated. The order in which the evidence should be produced in such cases is a matter largely within the discretion of the Court. (8 Cyc. 683; 3 Greenleaf on Ev., 100, 16 ed.), and as we have said, there was evidence in the testimony of Elliott admissible for the purpose of showing a conspiracy, and it was corroborated by the evidence of the admissions and statements of the accused.

"It is stated in 3 Greenleaf on Ev., 101 (16 ed.), that,

"The evidence in proof of a conspiracy will generally, from the nature of the case, be circumstantial. Though the common design is the essence of the charge, it is not necessary to prove that the defendants came together and actually agreed in terms to have that design, and to pursue it by common means. If it be proved that the defendants pursued by their acts the same object, often by the same means, one performing one part and another another part of the same so as to complete it, with a view to the attainment of that same object, the jury will be justified in the conclusion, that they were engaged in a conspiracy to effect that object.'"

Garland vs. State, 112 Md. 83, 100.

It can scarcely be said in the instant case that there was *no* evidence tending to prove the fact of a con-

spiracy, for there was abundance of evidence tending to prove that fact, more, indeed, than in the case just cited, and, therefore, it was proper for the Court sitting as a jury to consider the evidence of the acts and declarations of a co-conspirator, if it found that the conspiracy, itself, had been proved, which it seems to have done.

If the Court sitting as a jury found the fact of a conspiracy, they could then consider every act of a co-conspirator, even if appellant had taken no active part in effecting the object of the conspiracy.

"If it be found that A with others had conspired and combined to effect a common object, and it was arranged that each should do certain acts and perform certain parts, with a view to the attainment of the same common result, or that one or two were to be the active agents, while the others remained in the background, and took no open or visible part in the transactions, yet they would be all alike responsible for the acts of all and of either one. Whatever is said or done by either one of the number in furtherance of the common design becomes part of the *res gestae*, and is the act or saying of all."

Wright on Crim. Consp., p. 128.

C.

As to Mr. Wolf's efforts to communicate with Keller, the Court sitting as a jury was, of course, at liberty to credit the appellant's story that he was actuated only by an intellectual curiosity to learn whether Keller had really said what he was reported to have said. The Court was also at liberty, however, to believe that the

appellant intended to induce Keller to suppress his testimony and thus conceal the evidence of the conspiracy, and for this purpose the evidence offered was clearly admissible.

"Acts of the parties, although after the consummation of the crime, done for the purpose of escaping detection are admissible."

3 Encycl. of Evidence, p. 432.

"The acts and conduct of one accomplice, during the pendency of the criminal act, not alone in its actual perpetration, but also in its subsequent concealment, are admissible in evidence against another accomplice."

Carter vs. State (Ga.) 71 Am. St. Rep. 262 (Headnote).

"If it be conceded that the conspiracy did not extend to securing the fruits of the crime, still, if the parties, after the consummation of the burglary and theft, fearing detection, agreed to remove and hide the corn, and in pursuance of this they did so,—Elmer acting with the others,—the fact that the matter was mentioned at one time between Ether and Underwood Barber to Bart Cooper in the absence of Elmer would not work any injury to appellant."

Barber vs. State, (Tex.) 69 S. W. 515.

"Whatever the defendant himself may have done in the fabrication of evidence to prevent suspicion from attaching to him, or to avoid a prosecution, was proper to be shown to the jury and considered by them. * * * And if another person conspired with him to assist in the accomplishment of this purpose, his acts and declarations, in furtherance of the common design, are, we think, admissible."

Miller vs. Dayton, 57 Iowa, 423, 429.

"Suppose three or more persons should enter into a conspiracy to burn a building. It is arranged among them that A shall fire the building, and the other conspirators stand guard in the meantime to prevent discovery. They go to fulfill their design, and each performs the task assigned him; but A, immediately after the fire is set, runs away, contrary to the expectation of the others. The others remain and perform various acts intended to cover up the crime. Now it is well settled that evidence of the entire transaction covered by the conspiracy, from its commencement to its termination by the departure of all the conspirators from the scene of the crime, is admissible against A as well as against each of the other parties on their separate trials for the commission of the crime. The ruling of the Court goes no farther than this, and is clearly correct."

State vs. Shields, 45 Conn. 256, 263.

"Betts and the accused were charged as accomplices in this offence. Betts, as the principal, and the accused as aiding and abetting. The evidence in the record shows them together at the place and time when the alleged larceny was said to have been committed; that they were in the store and near the place where the meat alleged to have been stolen was located; that Betts was seen to leave the store with a sack and something in it, and placed it in a wagon in which both he and the accused, with others, returned home after night; that this occurred on Saturday evening, and on Monday morning when officers with a search warrant were approaching the houses of defendants, that *Betts was seen to leave his house and go around with something under his arm wrapped in a cloth.*

"*Prima facie* under this proof, and during the pendency of the wrongful act, not only in its perpetration but in the effort at concealment, the act

and conduct of one accomplice is admissible against the other, as are also his sayings pending the common criminal enterprise. They go to establish his guilt; and if the other is shown to have aided and abetted the offence, they are evidence of his guilt, for the act of one is the act of both when the common criminal intent is established." (Italics ours).

Byrd vs. State, 68 Ga. 661, 662.

The above authorities are amply sufficient to show that evidence of an effort to conceal a crime on the part of one of the parties thereto may be offered in evidence against another party thereto whose part in the crime has been fully accomplished. *A fortiori* may evidence of such effort to conceal be offered against the very party who makes such effort, even when the crime is a conspiracy which has been terminated either by consummation (*i. e.*, attainment of the object, which is certainly not the case here) or by withdrawal from the conspiracy by the party on trial and notice of such withdrawal to the others.

In the instant case, however, there is no evidence that the appellant had withdrawn from the conspiracy; Keller might, perhaps, be considered as having withdrawn, but that cannot avail the appellant, because (1) the appellant and not Keller was on trial, and (2), if Keller is to be considered as having withdrawn, the appellant had not received notice from Keller of that fact.

"While it is not necessary to show an actual agreement, nor even that the means were predetermined, * * * yet there must be active participation in the conspiracy, or its work, to implicate the defendants; * * * Should one of the conspirators withdraw, it would seem that such withdrawal

ought to be explicit, and notice be given to co-conspirators either by words or unequivocal acts."

Wright on Crim. Consp., p. 218.

Here the appellant had received no direct notice from Keller of a withdrawal by the latter from the conspiracy, and the clear inference from his own testimony as to his purpose in seeking Keller is that he did not believe that Keller had so withdrawn.

D.

As a matter of fact, Keller was corroborated. He was corroborated as to various details of his testimony by a number of witnesses of whom some were called by the State and some by the defense. More important corroboration was supplied by circumstantial evidence of his acts and of those of Mr. Wolf, taken together. In fact, it is scarcely too much to say that we might reject every part of Keller's testimony except that which is corroborated either by the testimony of other witnesses or by circumstances, and we should still have enough to convict. Take the bare facts of his visit, with Socolow, to Mr. Wolf's home, of the telephone conversation that night between Mr. Wolf and Captain Leverton, of Mr. Wolf's introduction next morning of Keller to Captain Leverton, and of Keller's false and misleading statements coming immediately after his attempts to establish confidence in his veracity—is not all this almost enough, in connection with the other testimony, exclusive of Keller's, to prove the conspiracy as charged?

Why did Mr. Wolf, with the strict, we will not say too strict, ideas of his duty to his client which he says that

he held, introduce Keller to Captain Leverton? Was it for the purpose of leading to the arrest and conviction of Socolow, whose presence at his home he was prevented by ethical considerations from disclosing? If not, it must have been for the purposes charged in the indictment. Again, we have Mr. Wolf attempting to lead the police *away from the trail of residents of Baltimore* by his communications to Commissioner Gaither and to the newspaper men; we have his introduction of Keller to Captain Leverton, and we have Keller's story of "*Boston*" and "*Chicago*." To borrow an illustration made famous by Abraham Lincoln, if we find two workmen doing different pieces of work and if we find these two pieces of work fitting together perfectly, we *must* conclude that these pieces of work were prepared in accordance with a plan previously known to both these workmen.

If, however, there had been no corroboration of Keller, that is a matter on which this Court will not pass. The bar for a time assumed the contrary, because of an incidental remark let fall in:

Lanasa vs. State, 109 Md. 602.

This misunderstanding was soon corrected by the opinion filed in:

Luery vs. State, 116 Md. 284, 292-293.

The Court there suggested that a conviction on the uncorroborated testimony of an accomplice could be set aside upon a motion for new trial. Such a motion was filed in the instant case, and was heard, not simply by the five judges who rendered a verdict of guilty, but

by the full membership, we believe, of the Supreme Bench of Baltimore City. Their decision was adverse to the appellant, and, having exhausted his remedy so far as this allegation of error is concerned, he can go no further upon this ground.

E.

The questions grouped under this head will be discussed in connection with those of the exceptions which do not belong or which do not wholly belong in one or more of the classifications heretofore mentioned.

III.

A considerable number of exceptions are not discussed in the brief by counsel for appellant. We are advised by them that the failure to discuss these exceptions is not to be taken as an abandonment thereof. Nevertheless, we think it as well to spare the Court a discussion by us of exceptions which our opponents have not found it worth while to discuss, but we will ask the Court, if it should feel that any of these exceptions merit discussion, to give us, and, of course, our opponents an opportunity to present our views thereon. The exceptions thus omitted from consideration are the 2nd, 10th, 15th, 25th, 26th, 31st, 34th, 40th, 43rd, 46th, 47th, 48th, 56th, 57th, 58th, 61st, 62nd, 63rd, 67th, 68th, 69th, 70th, 71st, 79th, 87th, 88th, 94th, 101st, 104th, 109th, 111th, 112th, 113th, 114th, 115th, 116th, 117th, 118th, 119th and 120th.

The first eight exceptions relate to a conversation between Mr. Wolf and General Gaither and are covered by what was said, under classification A, as to testi-

mony tending to show preparation and intent. But, aside from the admissibility of this testimony, the substance of it was brought out on the cross-examination of General Gaither personally conducted by Mr. Wolf (R. 35-36) and in the testimony of Mr. Wolf (R. 310-311). Mr. Wolf evidently thought,—and it may well have been so,—that this evidence was susceptible of either a favorable or unfavorable interpretation, and it is impossible, even after verdict, to say which interpretation the Court sitting as a jury placed upon it.

In addition, there are certain of these exceptions which are unavailable for other reasons.

- 1st. The question was merely preliminary.
- 2nd. Not discussed—see list above.
- 3rd. The only part of the answer which was responsive was as follows: "I told him that I was very much obliged to him and would do so." Answer not objected to—only the question.
- 4th. Merely preliminary. Answer went further, but there was no objection to that.
- 5th. Fully developed on cross-examination. See above.
- 6th. Witness stopped by State before saying anything prejudicial. Motion to strike out made by counsel for Socolow—not Wolf.
- 7th. Question not answered positively—no objection to answer.

8th. Answer not responsive—no objection to answer.

9th. The testimony admitted as set forth in the ninth exception comes within classification C.

10th. Not discussed—see list above.

11th. See first paragraph of classification A.

12th. Preparation and intent—classification A. Besides, the witness was asked simply as to the date of the event, and to this he had testified in his last preceding answer, without objection. Also, question not answered.

13th and 14th. First paragraph of classification A.

15th. Not discussed—see list above.

16th, 17th and 18th. First paragraph of classification A.

19th and 20th. Merely preliminary, especially in view of answer to question in 20th exception.

21st. Preparation and intent.

22nd. Classification B.

23rd. The same—besides, answer could not have prejudiced appellant.

24th. Classification B.

25th and 26th. Not discussed—see list.

27th to 30th, inclusive. Classification B.

31st. Not discussed. See list.

32nd. Preparation and intent.

33rd. Second paragraph of classification A.

34th. Not discussed—see list.

35th to 39th, inclusive. Second paragraph of classification A. 39th also comes under head of preparation and intent, and the answer is very important, as showing unusual interest on the part of Mr. Wolf and his condemnation of police activities which were amply justified, as the event proved.

40th. The same and also preparation and intent.

41st and 42nd. Classification B.

43rd. Not discussed—see list.

44th and 45th. Classification B.

46th, 47th and 48th. Not discussed—see list.

49th to 52nd, inclusive. Classification B, and note what is said under C as to withdrawal without notice to co-conspirator. Keller had not withdrawn, however. See *infra* under Exception 60.

53rd. Answer not prejudicial.

54th. It was necessary to introduce this line of testimony in order to show that the story that Keller

conspired with Wolf and Socolow to tell to the police was, in fact, false, and also to establish Keller's knowledge of facts that enabled him to play his important part in the conspiracy.

55th. Part of the same line of testimony as the last. Objection to question as leading untenable. It was clearly *not* leading,—besides, allowing of leading questions is in the discretion of the Court.

56th, 57th and 58th. Not discussed—see list.

59th. We cannot perceive that this question was leading, although, in this, we disagree with the trial Court. Certainly it was not so leading as to be objectionable under all the circumstances. Besides, this was in the discretion of the Court.

60th. This question was decidedly relevant. The answer showed that Keller had not yet withdrawn from the conspiracy to aid in the escape of Socolow. His declarations were, therefore, still binding on his co-conspirators—see classification B. The question was leading, of course, but this was in the discretion of the Court; moreover, the answer was so obvious that the question was really unnecessary, and, therefore, not prejudicial.

61st, 62nd and 63rd. Not discussed—see list.

64th. Relevant, as showing knowledge, on the part of conspirators, of the situation with which the conspiracy dealt. Keller's whole plan was predicated on the confession of Allers. Leading, of course, but this was in discretion of Court. Not prejudicial, for Keller had tes-

tified elsewhere that he and Socolow had read of the confession, and Hammersla's testimony shows that Wolf had learned of it. (R. 181.)

65th (R. 180). Apparently the ground of objection here is that the question called for an answer as to the idea which was present in the mind of the witness and which was not necessarily known to Mr. Wolf. No direct answer was given to this question, but, in answer to the next question, the answer previously called for was given, at least inferentially. However, a few lines further down, it appears very clearly that Mr. Wolf knew exactly to what the witness referred. The answer was, therefore, not prejudicial.

66th. (R. 187). Admissible—see classification B.

67th to 71st, inclusive. Not discussed—see list.

72nd (R. 216). Keller had not withdrawn from the conspiracy and the testimony tended to establish that fact as did the testimony embraced in exception 60; therefore, the question was admissible under classification B. If he had withdrawn, the question would still have been proper, for the answer tended to show an effort to conceal—see classification C.

73rd. Merely preliminary, and the answer not prejudicial.

74th. Relevant, as tending to show relations between Wolf and Keller. Compatible with innocence, when taken by itself, but also compatible with guilt, and the true interpretation was for the Court sitting as a jury. Besides, the *question* was free from objection and there was no objection to the answer.

75th. Clearly relevant, as tending to corroborate Keller's account of the conversation at Wolf's home, which is just what the appellant's counsel contend that we haven't done. They say we haven't done it and object when we do it. The date of the conversation is pretty well fixed, by process of elimination, as Thursday, August 24th, the day after Socolow and Keller visited Wolf.

76th. Certainly not prejudicial, in view of the answer.

77th. Answer not responsive to question, and no objection to answer.

78th. The exception states that defendant objected to the "question," but there was no *question* set out in this bill of exceptions. If the testimony given on pp. 225 and 226 of the Record can be considered as an answer to the question on p. 224, it certainly tended to bear out the theory of the State that Mr. Wolf was seeking publicity for Keller's false statements, and thus actively aiding the conspiracy.

79th. Not discussed—see list.

80th. (R. 228). Merely preliminary, and the answer could not have prejudiced anyone.

81st. Strictly speaking, this question also was preliminary; the witness was questioned as to what he said to Mr. Wolf (which, of course, was irrelevant, in itself) as preliminary to the question which immediately follows, namely: "What was Mr. Wolf's reply to that?" *To this latter question there was no objection.* Of

course, the purpose of the State was to show silence under accusation, evidence of which is always admissible on the question of guilt or innocence of the offense to which the accusation relates. Counsel for appellants will contend, no doubt, that the State was complaining of his failure to try his case in the newspapers. This contention is wholly unfounded; the State simply shows that Wolf, when accused, made no such *general* denial as it might be supposed that one accused of crime could not help making, especially one who had to be dissuaded from assaulting the State's Attorney, by whom the accusation was made, as Mr. Wolf says was the case with him (R. 333). Appellant's counsel must realize that this evidence was relevant; if they do not, it is certainly very strange that, after objecting to two questions which were merely preliminary, and noting exceptions to the action of the Court in overruling those objections, they should then wholly refrain from objection to the first and only question which really raised the point.

82nd, 83rd and 84th. The introduction of newspaper articles was not, of course, for the purpose of showing the truth of any fact therein stated. The articles admitted in evidence are not set out in the Record, but enough appears to show quite clearly that they were admitted solely for the purpose of showing what Socolow and Keller knew of the confession of Allers, and with what knowledge of the general situation, as affected by that confession, they entered into the conspiracy. Mr. Wolf's knowledge of the confession of Allers had already been shown (R. 181), and it was competent to show the knowledge of his co-conspirators, in order that the circumstances under which the conspiracy was formed

might appear as fully as possible. See first paragraph of classification A.

Note evidence of newspaper articles offered by the defense (R. 337-338).

85th. The answer gives information of a purely preliminary nature, for it tells only of the object with which the witness visited Mr. Wolf, and there was no objection to the subsequent question as to Mr. Wolf's reply.

86th. Preparation and intent.

87th. Not discussed—see list.

88th. Could not possibly have been prejudicial, in view of the answer.

89th and 90th. The witness, a newspaper reporter, had asked Mr. Wolf to tell him what he knew of Keller, and Mr. Wolf, in reply, told Captain Leverton to give him this information (R. 241). These exceptions relate to the information thus given by Captain Leverton. The questions did not call for an account of what this information was, but, if they had, such evidence would, of course, have been admissible, as tending to show the activity of Mr. Wolf in carrying out the objects of the conspiracy by spreading before the general public, through the press, the false and misleading statements of Keller, after obtaining credence for them by exhibiting Keller in the light of one who was aiding the authorities.

91st. Clearly admissible under classification B.

92nd. Merely preliminary and the answer could not possibly be prejudicial. See also the testimony immediately preceding (R. 245), to which there was no objection.

93rd. Question proper, being merely preliminary and calling for no further answer than a simple affirmative or negative. The answer went further, but to that there was no objection. See remarks above as to 81st exception.

94th. Not discussed—see list.

95th to 100th, inclusive. These exceptions relate to a conversation held on Friday, August 25, by Mr. Wolf with the witnesses Locke and Harwood, in which, according to the testimony which appears in these exceptions, he said that Keller had called at his *office* on Wednesday *afternoon*, whereas it afterwards developed (and is a *concessum* in this case) that it was at Wolf's *home* and about *eight P. M.* that Keller first called on him. Here was something more than *mere* silence under accusation; Mr. Wolf had been accused and he replied, according to this testimony, with a false account of an event closely connected with the subject matter of the accusation. He denied the correctness of this testimony (R. 334-335) and the issue of fact thus made was for the Court sitting as a jury.

101st. Not discussed—see list.

102nd to 108th, inclusive. The tendency of the questions embraced in these exceptions was to elicit evidence of an effort at concealment—see classification C. Some

further remarks are in order with regard to certain of the individual exceptions in this general category.

102nd. Answer not responsive and no objection to answer.

103rd. It was certainly competent to show Mr. Wolf's opinion of the mental acuteness of one who was charged as his fellow conspirator.

104th. Not discussed—see list.

105th. Same testimony had just been given without objection (R. 264).

106th. The only important part of the question related to the report made by the witness to Mr. Wolf, and this information was not given in reply to this question, but in answer to the next question, to which there was no objection.

107th and 108th. Certainly not prejudicial, in view of the answers.

109th. Not discussed—see list.

110th. Clearly admissible for the purpose of showing previous association. The question of how well alleged conspirators knew each other is highly relevant on a charge of conspiracy. (See *Frend vs. State*, 129 Md. 636, 644.)

111th to 120th, inclusive. Not discussed—see list.

In considering all the above exceptions, the nature of the crime of conspiracy and the character of evidence to

which it is necessary to resort for proof of that crime must be constantly borne in mind. We ask the indulgence of the Court for the repetition of a quotation made in an earlier part of this brief:

"In prosecutions, however, for criminal conspiracies the proof of the combination charged must almost always be extracted from the circumstances connected with the transaction which forms the subject of the accusation. In the history of criminal administration, the case is rarely found in which direct and positive evidence of criminal combination exists. To hold that nothing short of such proof is sufficient to establish a conspiracy, would be to give immunity to one of the most dangerous crimes which infest society. Hence, in order to discover conspirators, we are forced to follow them through all the devious windings in which the natural anxiety of avoiding detection teaches men so circumstanced to envelope themselves, and to trace their movements from the slight, but often unerring marks of progress, which the most adroit cunning cannot so effectively obliterate, as to render them unappreciable to the eye of the sagacious investigator."

Comm. vs. McClean, 2 Parsons (Pa.) 367, 368.
IV.

Although we have discussed the exceptions at length, we feel that we are bound to call the attention of the Court to a question which has arisen in our minds as to whether any of these exceptions are properly before this Court. Five Judges presided at the trial and the bills of exception are signed by one only. This Court has said:

"The only way that a question can be made to appear to this Court, to have been made to and decided by the court below, is by way of exception. By the uniform and continuous practice in this State, a bill of exceptions must be signed and sealed by the court below, before we can review it." (Italics ours.)

Albert vs. State, Use of Ryan, 66 Md.
325, 334.

It would seem that the word "court" as above used should mean the whole court, and that each of the judges should have an opportunity to decide whether the facts as set out in the bills of exception agree with his recollection of the facts.

In fairness, however, it must be said that a contrary conclusion may be indicated by:

13 Edw. I, Stat. 1, Cap. 31; 1 Alex. Br. Stats.
(Coe's Ed.) page 165.

CONCLUSION.

The appellant has had a fair and impartial trial before five members of the Supreme Bench of Baltimore City, wherein he was defended by numerous and able counsel, and it must be some manifest and prejudicial error which should cause a reversal of the judgment rendered against him. We submit that no such error is to

be found in the record, and that, therefore, the judgment of the Criminal Court of Baltimore should be affirmed.

Respectfully submitted,

ALEXANDER ARMSTRONG,
Attorney General.

LINDSAY C. SPENCER,
Assistant Attorney General.

ROBERT F. LEACH, Jr.,
The State's Attorney for the
City of Baltimore.

For the Appellee.

CONCLUSION

The applicant has had a fair and impartial trial before the members of the Supreme Bench of Baltimore City, who have heard the evidence and the arguments of the parties and have rendered their verdict in accordance with the law and the facts of the case. The applicant is satisfied with the result and does not desire to appeal.

APPENDIX.

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Transcript of Record

FROM THE
CRIMINAL COURT OF BALTIMORE CITY,

IN THE CASE OF
HARRY B. WOLF,

APPELLANT,

vs.

STATE OF MARYLAND,

APPELLEE.

TO THE

COURT OF APPEALS OF MARYLAND.

SAMUEL K. DENNIS,
F. NEAL PARKE,
THOMAS H. ROBINSON,
H. WEBSTER SMITH,
GERALD W. HILL,
FOR APPELLANT.

ROBERT F. LEACH, JR.,
HERBERT O'CONNOR,
EDGAR ALLAN POE,
ALEXANDER ARMSTRONG,
FOR APPELLEE.

IN THE CRIMINAL COURT OF BALTIMORE.

Transcript of Record

STATE OF MARYLAND

vs.

HARRY B. WOLF.

CHARGE—CONSPIRING TO OBSTRUCT JUSTICE.

Appearing for the State:

Robert F. Leach, Jr.,

State's Attorney for Baltimore City;

Herbert R. O'Connor,

Assistant State's Attorney;

Edgar Allan Poe,

Special Assistant.

Appearing for Harry B. Wolf:

Samuel K. Dennis, Esq.,

F. Neal Parke, Esq.,

Thomas H. Robinson, Esq.,

H. Webster Smith, Esq.,

Gerald W. Hill, Esq.

DOCKET, 1922.

In the Criminal Court of Baltimore—No. 2526—September Term, 1922.

State of Maryland vs. Walter Socolow, John Keller, Harry B. Wolf.

Charge—Conspiracy to obstruct justice, etc.

Prosecuting Witness—Inspector Hurley.

14th September.—Presentment filed c. d., capias issued, capi on bail as to Wolf, capi in jail as to Socolow and Keller.

14th September.—Recognizance taken David Askin \$5,000 for Harry Wolf.

17th October.—Indictment filed.

30th October.—On motion and assent of State severance granted John Keller, Gorter, Bond, Duffy, Stanton and Stein, judges.

30th October.—Demurrer to indictment and each count filed; demurrer overruled.

30th October.—Wolf and Socolow each submit under plea; not guilty and issue before Gorter, Bond, Duffy, Stanton and Stein, judges.

6th November.—Verdict—guilty as to Walter Socolow and Harry Wolf.

6th November.—Judgment—sentence suspended pending motion for new trial.

6th November.—Motion for new trial filed.

6th November.—Transcript evidence filed.

8th November.—Motion in arrest of judgment filed.

9th November.—Petition and order of court extending time for filing an agreed statement of facts to and including 15th November, 1922, filed; Gorter, J.

9th November.—Petition and order of court extending time for filing and signing bills of exceptions until 30 days, Gorter, J., filed.

15th November.—Agreed statement of facts filed.

21st November.—Original papers and certified copy of docket entries transmitted to the Supreme Bench of Baltimore City.

28th November.—Original papers returned. "Motion for new trial and motion in arrest of judgment overruled by the Supreme Bench of Baltimore City and case remanded for further proceeding." Order filed 28th November, 1922.

28th November.—Harry B. Wolf submits for sentence before Gorter, Duffy, Bond, Stanton and Stein, judges.

28th November.—Judgment—fine \$100 and costs.

28th November.—Harry B. Wolf released on own recognizance \$100 pending appeal as per order of court, Gorter, J.

28th November.—Order of appeal to Court of Appeals of Maryland on behalf of Harry B. Wolf and affidavit that appeal is not taken for delay filed.

7th December.—Judgment sentence suspended; paroled as to Keller; order filed, Gorter, J.

21st December.—Judgment suspended indefinitely, Gorter, J.

26th December.—Petition and order of court for extending time for filing and signing bills of exceptions granted to and including 26th January, 1923, Gorter, J.

26th January.—Bills of exceptions filed.

State of Maryland, City of Baltimore, to wit:

I hereby certify that the foregoing is a true copy of the docket entries in the aforesaid case, taken and copied from the record of proceedings of the Criminal Court of Baltimore.

In testimony whereof I hereto set my hand and affix the seal of the Criminal Court of Baltimore this 2nd day of February, 1923.

(Seal)

Edward Gross,

Clerk, Criminal Court of Baltimore.

14th September, 1922.—Presentment filed.

17th October, 1922.—Indictment filed in manner and form following to wit:

State of Maryland, City of Baltimore, to wit:

The jurors of the State of Maryland, for the body of the City of Baltimore, do on their oath present that heretofore and before the commission of the offense hereinafter alleged, Robert F. Leach, the younger, was the State's Attorney for the City of Baltimore; that in his official capacity as said State's Attorney as aforesaid, he together with and aided by the Police Commissioner for the City of Baltimore and the members of the Police Department of said city, had after an extensive investigation secured the evidence necessary to establish the identity and secure the indictment and subsequent prosecution of the persons guilty of having perpetrated the robbery and murder of one William B. Norris, which had occurred at Park Avenue and Madison Street, public highways of said city, on the 18th day of August, in the year of our Lord nineteen hundred and twenty-two; that included in the evidence aforesaid was the confession of one Frank L. Allers, which together with corroborative evidence then in hand, established the fact that said Frank L. Allers, Charles P. Carey, otherwise called Country Carey, John L. Smith, otherwise called Wiggles Smith, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, and Walter Socolow were the persons who had actually been present on and at the scene and who had perpetrated the robbery and murder of the said William B.

Norris, as aforesaid, and that of the same, the said Walter Socolow was the person who actually then and there fired the shots which effected the murder aforesaid; that in the perpetration as well as in proceeding to the scene of said crime and the flight therefrom, the said perpetrators thereof had used a certain Hudson automobile with wire wheels, then and there driven by said Frank L. Allers; and that on the twenty-third day of August, in the year of our Lord nineteen hundred and twenty-two, at the City of Baltimore aforesaid, Harry B. Wolf, Walter Socolow and John Keller, all late of said city, well knowing that the said State's Attorney for the City of Baltimore aforesaid was about to present to and lay before the grand jury of the Criminal Court of Baltimore City as aforesaid, said evidence secured as aforesaid, and unlawfully and corruptly designing and intending to mislead and deceive said grand jury in its investigation, consideration and action in the premises, did unlawfully, wilfully and corruptly conspire, combine, confederate and agree together, and with each other by wrongful and indirect means to impede and obstruct the due administration of justice in said investigation and consideration in the premises by said grand jury of said Criminal Court of Baltimore City; against the peace, government and dignity of the State.

SECOND COUNT.

And the jurors aforesaid, upon their oath aforesaid, do further present that heretofore and before the commission of the offense hereinafter alleged, Robert F. Leach, the younger, was the State's Attorney for the City of Baltimore; that in his official capacity as said State's Attorney as aforesaid, he together with and aided by the Police Commissioner for the City of Baltimore and the members of the Police Department of said city, had after an extensive investigation secured the evidence necessary to establish the identity and secure the indictment and subsequent prosecution of the persons guilty of having perpetrated the robbery and murder of one William B. Norris, which had occurred at Park Avenue and Madison Street, public highways of said city, on the 18th day of August, in the year of our Lord nineteen hundred and twenty-two; that included in the evidence aforesaid was the confession of one Frank L. Allers, which together with corroborative evidence then in hand, established the fact that said Frank L. Allers, Charles P. Carey, otherwise called Country Carey, John L. Smith, otherwise called Wiggles Smith, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stu-

art, and Walter Socolow were the persons who had actually been present on and at the scene and who had perpetrated the robbery and murder of the said William B. Norris, as aforesaid, and that of the same, the said Walter Socolow was the person who actually then and there fired the shots which effected the murder aforesaid; that in the perpetration as well as in proceeding to the scene of said crime and the flight therefrom, the said perpetrators thereof had used a certain Hudson automobile with wire wheels, then and there driven by said Frank L. Allers; and that on the twenty-third day of August, in the year of our Lord nineteen hundred and twenty-two, at the City of Baltimore aforesaid, Harry B. Wolf, Walter Socolow and John Keller, all late of said city, well knowing that the said State's Attorney for the City of Baltimore aforesaid was about to present to and lay before the grand jury of the Criminal Court of Baltimore City as aforesaid, said evidence secured as aforesaid, and unlawfully and corruptly designing and intending to mislead and deceive said grand jury in its investigation, consideration and action in the premises, did unlawfully, wilfully and corruptly conspire, combine, confederate and agree together, and with each other, by wrongful and indirect means to discredit the evidence so secured and to impede the said grand jury of the Criminal Court of Baltimore City in its investigation, consideration and action in the premises, and to hinder the prosecution of the said Charles P. Carey, otherwise called Country Carey, John L. Smith, otherwise called Wiggles Smith, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, and Walter Socolow in the premises, which said conspiracy so as aforesaid entered into is of grievous prejudice to the common and public good and welfare, of evil example to others in like manner offending, and against the peace, government and dignity of the State.

THIRD COUNT.

And the jurors aforesaid, upon their oath aforesaid, do further present that heretofore and before the commission of the offense hereinafter alleged, to wit, on the eighteenth day of August, in the year of our Lord nineteen hundred and twenty-two, one William B. Norris was robbed and murdered at or near the northwest corner of Madison Street and Park Avenue, in said City of Baltimore, by certain persons who then escaped from the scene of said crime; and that the State's Attorney for the City of Baltimore, and the Police Department of said City of Baltimore immediately began an extensive investigation for the purpose of ascertaining the identity of and apprehending the

persons who had there and then perpetrated said robbery and murder, as aforesaid, and that thereafter one Frank L. Allers surrendered to the authorities, and on the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two, whilst in the custody of the law, as aforesaid, made a full and complete confession as to the details in connection with said robbery and murder, in which said confession he, the said Frank L. Allers, named Charles P. Carey, otherwise called Country Carey, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, John L. Smith, otherwise called Wiggles Smith, Walter Socolow and himself, the said Frank L. Allers, as comprising the five persons who were actually on and at the scene and perpetrated the robbery and murder aforesaid, and named the said Walter Socolow as the person who actually fired the pistol shots during said robbery which there and then killed the said William B. Norris; that a report that said confession of said Frank L. Allers had been made appeared in the newspapers published in said City of Baltimore on the afternoon of Wednesday, the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two; that said Charles P. Carey, otherwise called Country Carey, and John L. Smith, otherwise called Wiggles Smith, together with said Frank L. Allers were in the custody of said police authorities, and that the said police authorities and the members of the said Police Department of said City of Baltimore were then seeking the apprehension of said Walter Socolow and said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, who were then still at large and in hiding; and that said Walter Socolow was present on and at the scene and took part in the commission of the robbery and murder of the said William B. Norris aforesaid, and did there and then fire the pistol shots during said robbery which there and then killed said William B. Norris; and that John Keller was at the time hereinafter mentioned and had been ever since said robbery and murder, as aforesaid, engaged in supplying said Walter Socolow and said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, who were in hiding in the City of Baltimore as aforesaid, and each of them, with food, newspapers, information and assistance generally; and that said Harry B. Wolf was at the time hereinafter mentioned, and before and afterwards, an attorney-at-law, and actively engaged in the practice of criminal law in the City of Baltimore aforesaid; and that the said Harry B. Wolf, Walter Socolow and John Keller, all late of the City of Baltimore

aforesaid, well knowing the premises, and unlawfully and corruptly designing and intending to destroy the faith which the State's Attorney for the City of Baltimore, and the police authorities of said City of Baltimore, placed in the results of their own investigations and to discredit and nullify said confession of said Frank L. Allers and thereby mislead said State's Attorney and said police authorities in their endeavors to bring those who had perpetrated the robbery and murder of said William B. Norris, as aforesaid, to wit, the said Charles P. Carey, otherwise called Country Carey, John L. Smith, otherwise called Wiggles Smith, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, and Walter Socolow to indictment and trial for said crime, and to enable them to escape punishment for said crime, did, on the twenty-third day of August, in the year of our Lord nineteen hundred and twenty-two, at the City of Baltimore aforesaid, unlawfully and corruptly conspire, combine, confederate and agree together, and with each other, by wrongful and indirect means, to destroy the faith which the State's Attorney and police authorities aforesaid placed in the results of their own investigations, and to discredit and nullify said confession of said Frank L. Allers and thereby mislead said State's Attorney and said police authorities in their endeavors to bring those who had perpetrated the robbery and murder of William B. Norris, as aforesaid, to wit, the said Charles P. Carey, otherwise called Country Carey, John L. Smith, otherwise called Wiggles Smith, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, and Walter Socolow to indictment and trial for said crime and to enable them to escape punishment for said crime, which said conspiracy, so as aforesaid entered into, had a tendency to prejudice and injure the public good and welfare to the evil example of all others in like manner offending and against the peace, government and dignity of the State.

FOURTH COUNT.

And the jurors aforesaid, upon their oath aforesaid, do further present that heretofore and before the commission of the offense hereinafter alleged, to wit, on the eighteenth day of August, in the year of our Lord nineteen hundred and twenty-two, one William B. Norris was robbed and murdered at or near the northwest corner of Madison Street and Park Avenue, in said City of Baltimore, by certain persons who then escaped from the scene of said crime; and that the State's Attorney for

the City of Baltimore, and the Police Department of said City of Baltimore immediately began an extensive investigation for the purpose of ascertaining the identity of and apprehending the persons who had there and then perpetrated said robbery and murder, as aforesaid, and that thereafter one Frank L. Allers surrendered to the authorities, and on the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two, whilst in the custody of the law, as aforesaid, made a full and complete confession as to the details in connection with said robbery and murder, in which said confession he, the said Frank L. Allers named Charles P. Carey, otherwise called Country Carey, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, John L. Smith, otherwise called Wiggles Smith, Walter Socolow and himself, the said Frank L. Allers, as comprising the five persons who were actually on and at the scene and perpetrated the robbery and murder aforesaid, and named the said Walter Socolow as the person who actually fired the pistol shots during the said robbery which there and then killed the said William B. Norris; that a report that said confession of said Frank L. Allers had been made appeared in the newspapers published in said City of Baltimore, on the afternoon of Wednesday, the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two; that said Charles P. Carey, otherwise called Country Carey, and John L. Smith, otherwise called Wiggles Smith, together with said Frank L. Allers, were in the custody of said police authorities, and that the said police authorities and the members of the said Police Department of said City of Baltimore were then seeking the apprehension of said Walter Socolow and said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, who were then still at large and in hiding; and that said Walter Socolow was present on and at the scene and took part in the commission of the robbery and murder of the said William B. Norris aforesaid, and did there and then fire the pistol shots during said robbery which there and then killed the said William B. Norris; and John Keller was at the time hereinafter mentioned and had been ever since said robbery and murder, as aforesaid, engaged in supplying said Walter Socolow and said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, who were in hiding in the City of Baltimore, as aforesaid, with food, newspapers, information and assistance generally; and that said Harry B. Wolf was at the time hereinafter mentioned, and before and afterwards, an

attorney-at-law, and actively engaged in the practice of criminal law in the City of Baltimore aforesaid; and that the said Harry B. Wolf, Walter Socolow and John Keller, all late of the City of Baltimore aforesaid, well knowing the premises, and unlawfully and corruptly designing and intending to destroy the faith which the State's Attorney for the City of Baltimore, and the police authorities of the said City of Baltimore, placed in the results of their own investigations, and to discredit and nullify said confession of said Frank L. Allers and thereby mislead said State's Attorney and said police authorities in their endeavors to bring those who had perpetrated the robbery and murder of said William B. Norris, as aforesaid, to wit, the said Charles P. Carey, otherwise called Country Carey, John L. Smith, otherwise called Wiggles Smith, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, and Walter Socolow to indictment and trial for said crime, and to enable them to escape punishment for said crime, did, on the twenty-third day of August, in the year of our Lord nineteen hundred and twenty-two, at the City of Baltimore aforesaid, unlawfully and corruptly conspire, combine, confederate and agree together, and with each other, to destroy the faith which the State's Attorney and police authorities aforesaid placed in the results of their own investigations and to discredit and nullify said confession of said Frank L. Allers and thereby mislead said State's Attorney and said police authorities in their endeavors to bring those who had perpetrated the robbery and murder of William B. Norris, as aforesaid, to wit, the said Charles P. Carey, otherwise called Country Carey, John L. Smith, otherwise called Wiggles Smith, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, and Walter Socolow to indictment and trial for said crime, and to enable them to escape punishment for said crime; and that in pursuance and furtherance of said unlawful conspiracy the said Harry B. Wolf on the morning on the twenty-fourth day of August, in the year of our Lord nineteen hundred and twenty-two, at the law office of him, the said Harry B. Wolf, situate in Baltimore City aforesaid, introduced said John Keller to a certain police captain of the Baltimore Police Department, to wit, James M. Leverton, as one who had valuable information to give concerning the robbery and murder of the said William B. Norris, but utterly failed to inform said police captain of anything concerning the relation and acquaintance said John Keller bore to the said Walter Socolow and said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James

Stuart, the said Walter Socolow being then wanted and sought by the police as the person who had actually shot and killed the said William B. Norris, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, being then wanted and sought by the police as one of the persons who had been present and aided in the commission of said crime, and that said John Keller then and there disclosed to the said James M. Leverton, police captain as aforesaid, the place at which could be found the money box taken from the said William B. Norris at the time of the robbery aforesaid, as well as the automobile license tag, which had been attached to the automobile used in the perpetration of the robbery aforesaid, resulting in the obtention of the money box and tag aforesaid; that having thus ingratiated himself with the said James M. Leverton said John Keller was taken thereafter the same day by the said James M. Leverton to the Central Police Station in said city, whereupon being questioned by other police officials then and there present, said John Keller, for the purpose of misleading the investigation then in progress in the premises and the deception of said State's Attorney and the members of the said Police Department conducting said investigation, did volunteer and falsely state that his knowledge of the location of the money box and tag aforesaid had been gained from a meeting which he had had with a certain man known to him as "Chicago" and another man known to him as "Boston"; that on the night of Saturday, immediately following the day of the commission of the crime aforesaid, he had been accosted on the street by said "Chicago" and said "Boston" and had accompanied them to the neighborhood of a certain garage in the city aforesaid, the key to which they had given to him, the said Keller, whereupon under threats he had been compelled to open said garage while the said "Chicago" and "Boston" awaited nearby in hiding; that thereupon after said garage had been thus opened the said "Chicago" and the said "Boston" had entered the same and in the presence of the said John Keller had removed therefrom and thrown into a pond nearby the said money box and tag which that day he had enabled the police to locate and secure; that thereafter, he had overheard the said "Chicago" say to the said "Boston" the police know I had the automobile; I am going to turn State's evidence "and now is the time to frame 'Waggles,'" meaning said John L. Smith, "Carey" meaning said Charles P. Carey, and "Socolow," meaning said Walter Socolow; that being asked if he could identify the man referred to as "Boston" and the man referred

to as "Chicago," the said John Keller then and there in furtherance of the agreement and conspiracy aforesaid, stated that he could not identify the said "Boston," but that he could identify the said "Chicago"; that immediately thereafter on the same day upon being led to the cell where the said Frank L. Allers was confined in the said Central Police Station, the said John Keller pointed out the said Frank L. Allers and said "that is 'Chicago,' the man whom I heard heard say he was going to frame Wiggles, Carey and Socolow"; that the said statements pretending to refer to a man named "Chicago" and a man named "Boston," as set forth, were false and untrue and were all a part of a preconceived plan and idea on the part of the said John Keller, Walter Socolow and Harry B. Wolf, to destroy the value which said police authorities and the said State's Attorney for the City of Baltimore aforesaid then placed on the confession previously made by the said Frank L. Allers and to discredit and nullify said confession of said Frank L. Allers and thereby mislead said State's Attorney and said police authorities in their endeavors to bring the perpetrators of said robbery and murder of said William B. Norris, to wit, the said Charles P. Carey, otherwise called Country Carey, John L. Smith, otherwise called Wiggles Smith, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, and Walter Socolow to indictment and trial for said crime and to enable them to escape punishment for said crime, which said conspiracy, so as aforesaid carried thus far into execution had a tendency to prejudice and injure the public and to obstruct and thwart public justice, to the evil example of all others in like manner offending and against the peace, government and dignity of the State.

FIFTH COUNT.

And the jurors aforesaid, upon their oath aforesaid, do further present that heretofore and before the commission of the offense hereinafter alleged, to wit, on the eighteenth day of August, in the year of our Lord nineteen hundred and twenty-two, at the city aforesaid, Walter Socolow, Frank L. Allers, John L. Smith, otherwise called Wiggles Smith, Charles P. Carey, otherwise called Country Carey, and James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, late of said city, in and upon one William B. Norris feloniously, wilfully and of deliberately premeditated malice aforethought did make an assault; and that the said Walter Socolow with a certain pistol which was

then and there loaded with gunpowder and certain leaden bullets, which pistol he, the said Walter Socolow, in his right hand then and there had and held, did then and there feloniously, wilfully and of deliberately premeditated malice aforethought shoot off and discharge at, upon and into the head and body of the said William B. Norris, thereby then and there inflicting in and upon the left side of the head and body of him, the said William B. Norris, divers mortal wounds, bruises, lacerations and contusions, of which said mortal wounds, bruises, lacerations and contusions he, the said William B. Norris, afterwards, to wit, on the said eighteenth day of August, in said year, at said city, did then and there die; And that the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, then and there feloniously, wilfully and of deliberately premeditated malice aforethought were present, aiding, helping, abetting, comforting, assisting and maintaining the said Walter Socolow the felony and murder aforesaid, in manner and form aforesaid, to do and commit; and so the jurors aforesaid, upon their oath aforesaid, do say that they, the said Walter Socolow, the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, him, the said William B. Norris, in manner and by the means aforesaid, feloniously, wilfully and of their deliberately premeditated malice aforethought did then and there kill and murder; and that Harry B. Wolf, late of said city, and John Keller, late of said city, afterwards, to wit, on the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two, at the city aforesaid, well knowing the said Walter Socolow, Frank L. Allers, John L. Smith, otherwise called Wiggles Smith, Charles P. Carey, otherwise called Country Carey, and James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, to have done and committed the felony and murder aforesaid, in manner and form aforesaid, and well knowing the said Walter Socolow and James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, were then and there fugitives from justice and then and there being sought by the police upon the aforesaid charge, and well knowing the said Charles P. Carey, otherwise called Country Carey, and John L. Smith, otherwise called

Wiggles Smith, were then and there in the custody of the law, with the charge as aforesaid about to be preferred against them, unlawfully did conspire, combine, confederate and agree together, and with the said Walter Socolow, and with each other, to aid and assist the said Walter Socolow, James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, Charles P. Carey, otherwise called Country Carey, and John L. Smith, otherwise called Wiggles Smith, and each of them, so being then and there felons as aforesaid, by then and there causing the said John Keller to volunteer, convey and impart certain pretended information by the way of false and misleading statement to one James M. Leverton, then and there a captain of police of the Police Department of the city aforesaid and to other members of said Police Department, then and there engaged in developing the State's case in the premises, which said pretended information and statements then and there made by the said John Keller in the premises were false, corrupt and misleading, and then and there known by them and each of them, the said Harry B. Wolf, John Keller and Walter Socolow to be false, corrupt and misleading, all of which had a tendency to prejudice and injure the public, to the evil example of all others in like manner offending and against the peace, government and dignity of the State.

SIXTH COUNT.

And the jurors aforesaid, upon their oath aforesaid, do further present that heretofore and before the commission of the offense hereinafter alleged, to wit, on the eighteenth day of August, in the year of our Lord nineteen hundred and twenty-two, at the city aforesaid, Walter Socolow, Frank L. Allers, John L. Smith, otherwise called Wiggles Smith, Charles P. Carey, otherwise called Country Carey, and James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, late of said city, in and upon one William B. Norris feloniously, wilfully and of deliberately premeditated malice aforethought did make an assault; and that the said Walter Socolow with a certain pistol which was then and there loaded with gunpowder and certain leaden bullets, which pistol he, the said Walter Socolow in his right hand then and there had and held, did then and there feloniously, wilfully and of deliberately premeditated malice aforethought shoot off and discharge at, upon and into the head and body of the said William B. Norris, thereby then and there inflicting in and

upon the left side of the head and body of him, the said William B. Norris, divers mortal wounds, bruises, lacerations and contusions, of which said mortal wounds, bruises, lacerations and contusions, he, the said William B. Norris, afterwards, to wit, on the said eighteenth day of August, in said year, at said city, did then and there die; and that the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, then and there feloniously, wilfully and of deliberately premeditated malice aforethought were present aiding, helping, abetting, comforting, assisting and maintaining the said Walter Socolow the felony and murder aforesaid, in manner and form aforesaid, to do and commit; and so the jurors aforesaid, upon their oath aforesaid, do say that they, the said Walter Socolow, the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, him, the said William B. Norris, in manner and by the means aforesaid, feloniously, wilfully and of their deliberately premeditated malice aforethought did then and there kill and murder; and that Harry B. Wolf, late of said city, and John Keller, late of said city, afterwards, to wit, on the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two, at the city aforesaid, well knowing the said Walter Socolow to have done and committed the felony and murder aforesaid, in manner and form aforesaid, and well knowing the said Walter Socolow was then and there being sought by the police upon the aforesaid charge, unlawfully did conspire, combine, confederate and agree together, and with the said Walter Socolow, and with each other, to aid and assist the said Walter Socolow, so being then and there a felon as aforesaid, by then and there causing the said John Keller to volunteer, convey and impart certain pretended information by the way of false and misleading statements to one James M. Leverton, then and there a captain of police of the Police Department of the city aforesaid, and to other members of said Police Department, then and there engaged in developing the State's case in the premises, which said pretended information and statements then and there made by the said John Keller in the premises were false, corrupt and misleading, and then and there known by them, and each of them, the said Harry B.

Wolf, John Keller and Walter Socolow, to be false, corrupt and misleading, all of which had a tendency to prejudice and injure the public to the evil example of all others in like manner offending and against the peace, government and dignity of the State.

SEVENTH COUNT.

And the jurors aforesaid, upon their oath aforesaid, do further present that heretofore and before the commission of the offense hereinafter alleged, to wit, on the eighteenth day of August, in the year of our Lord nineteen hundred and twenty-two, at the city aforesaid, Walter Socolow, Frank L. Allers, John L. Smith, otherwise called Wiggles Smith, Charles P. Carey, otherwise called Country Carey, and James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, late of said city, in and upon one William B. Norris feloniously, wilfully and of deliberately premeditated malice aforethought, did make and assault; and that the said Walter Socolow with a certain pistol which was then and there loaded with gunpowder and certain leaden bullets, which pistol he, the said Walter Socolow, in his right hand then and there had and held, did then and there feloniously, wilfully and of deliberately premeditated malice aforethought shoot off and discharge at, upon and into the head and body of the said William B. Norris, thereby then and there inflicting in and upon the left side of the head and body of the said William B. Norris divers mortal wounds, bruises, lacerations and contusions, of which said mortal wounds, bruises, lacerations and contusions he, the said William B. Norris, afterwards to wit, on the said eighteenth day of August, in the said year, at said city, did then and there die; and that the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, then and there feloniously, wilfully and of deliberately premeditated malice aforethought were present, aiding, helping, abetting, comforting, assisting and maintaining the said Walter Socolow the felony and murder aforesaid, in manner and form aforesaid, to do and commit; and so the jurors aforesaid, upon their oath aforesaid, do say that they the said Walter Socolow, the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart,

him, the said William B. Norris, in manner and by means aforesaid, feloniously, wilfully, and of their deliberately premeditated malice aforethought did then and there kill and murder; and that Harry B. Wolf, late of said city, and John Keller, late of said city, afterwards, to wit, on the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two, at the City aforesaid, well knowing the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, to have done and committed the felony and murder aforesaid, in manner and form aforesaid, and well knowing the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, was then and there a fugitive from justice and then and there being sought by the police upon the aforesaid charge, unlawfully did conspire, combine, confederate and agree together, and with the said Walter Socolow, and with each other, to aid and assist the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, so being then and there a felon as aforesaid, by then and there causing the said John Keller to volunteer, convey and impart certain pretended information by the way of false and misleading statements to one James M. Leverton, then and there a captain of police of the Police Department of the city aforesaid and to other members of said Police Department, then and there engaged in developing the State's case in the premises, which said pretended information and statements then and there made by the said John Keller in the premises were false, corrupt and misleading, and then and there known by them, and each of them, the said Harry B. Wolf, John Keller and Walter Socolow to be false, corrupt, and misleading, all of which had a tendency to prejudice and injure the public, to the evil example of all others in like manner offending and against the peace, government and dignity of the State.

EIGHTH COUNT.

And the jurors aforesaid, upon their oath aforesaid, do further present that heretofore and before the commission of the offense hereinafter alleged, to wit, on the eighteenth day of August, in the year of our Lord nineteen hundred and twenty-two, at the city aforesaid, Walter Socolow, Frank L. Allers, John L. Smith, otherwise called Wiggles Smith, Charles P. Carey, otherwise called Country Carey, and James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, late of said city, in and upon one

William B. Norris feloniously, wilfully and of deliberately premeditated malice aforethought did make an assault; and that the said Walter Socolow with a certain pistold which was then and there loaded with gunpowder and certain leaden bullets, which pistol he, the said Walter Socolow, in his right hand then and there had and held, did then and there feloniously, wilfully and of deliberately premeditated malice aforethought shoot off and discharge at, upon and into the head and body of the said William B. Norris, thereby then and there inflicting in and upon the left side of the head and body of him, the said William B. Norris divers mortal wounds, bruises, lacerations and contusions, of which said mortal wounds, bruises, lacerations and contusions he, the said William B. Norris, afterwards, to wit, on the said eighteenth day of August, in said year, at said city, did then and there die; and that the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, then and there feloniously, wilfully and of deliberately premeditated malice aforethought were present, aiding, helping, abetting, comforting, assisting and maintaining the said Walter Socolow, the felony and murder aforesaid, in manner and form aforesaid, to do and commit; and so the jurors aforesaid, upon their oath aforesaid, do say that they, the said Walter Socolow, the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, him, the said William B. Norris, in manner and by the means aforesaid, feloniously, wilfully and of their deliberately premeditated malice aforethought did then and there kill and murder; and that Harry B. Wolf, late of said city, Walter Socolow, late of said city, and John Keller, late of said city, afterwards, to wit, on the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two, well knowing the said Charles P. Carey otherwise called Country Carey, to have done and committed the felony and murder aforesaid, in manner and form aforesaid, and well knowing the said Charles P. Carey, otherwise called Country Carey, was then and there in the custody of the law upon the aforesaid charge, unlawfully did conspire, combine, confederate and agree together, and with each other, to aid and assist the said Charles P. Carey, otherwise called Country Carey, so being then and there a felon as aforesaid, by then and there causing the said John Keller to volun-

teer, convey and impart certain pretended information by the way of false and misleading statements to one James M. Leverton, then and there a captain of police of the Police Department of the city aforesaid, and to other members of said Police Department, then and there engaged in developing the State's case in the premises, which said pretended information and statements then and there made by the said John Keller in the premises were false, corrupt and misleading, and then and there known by them, and each of them, the said Harry B. Wolf, Walter Socolow and John Keller to be false, corrupt and misleading, all of which had a tendency to prejudice and injure the public, to the evil example of all others in like manner offending and against the peace, government and dignity of the State.

NINTH COUNT.

And the jurors aforesaid, upon their oath aforesaid, do further present that heretofore and before the commission of the offense hereinafter alleged, to wit, on the eighteenth day of August, in the year of our Lord nineteen hundred and twenty-two, at the city aforesaid, Walter Socolow, Frank L. Allers, John L. Smith, otherwise called Wiggles Smith, Charles P. Carey, otherwise called Country Carey, and James Hart otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, late of said city, in and upon one William B. Norris feloniously, wilfully and of deliberately premeditated malice aforethought did make an assault; and that the said Walter Socolow with a certain pistol which was then and there loaded with gunpowder and certain leaden bullets, which pistol he, the said Walter Socolow, in his right hand then and there had and held, did then and there feloniously, wilfully and of deliberately premeditated malice aforethought shoot off and discharge at, upon and into the head and body of the said William B. Norris, thereby then and there inflicting in and upon the left side of the head and body of him, the said William B. Norris divers mortal wounds, bruises, lacerations and contusions, of which said mortal wounds, bruises, lacerations and contusions he, the said William B. Norris, afterwards, to wit, on the said eighteenth day of August, in the said year, at said city, did then and there die; and that the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, then and there feloniously, wilfully and of deliberately premeditated malice afore-

thought were present, aiding, helping, comforting, abetting, assisting and maintaining the said Walter Socolow, the felony and murder aforesaid, in manner and form aforesaid, to do and commit; and so the jurors aforesaid, upon their oath aforesaid, do say that they, the said Walter Socolow, the said Frank L. Allers, the said John L. Smith, otherwise called Wiggles Smith, the said Charles P. Carey, otherwise called Country Carey, and the said James Hart, otherwise called Jack Hart, otherwise called James Connolly, otherwise called James Stuart, him, the said William B. Norris, in manner and by the means aforesaid, feloniously, wilfully and of their deliberately premeditated malice aforethought did then and there kill and murder; and that Harry B. Wolf, late of said City, Walter Socolow, late of said city, and John Keller, late of said city, afterwards, to wit, on the twenty-third day of August, in the said year of our Lord nineteen hundred and twenty-two, well knowing the said John L. Smith, otherwise called Wiggles Smith, to have done and committed the felony and murder aforesaid, and well knowing the said John L. Smith, otherwise called Wiggles Smith, was then and there in the custody of the law upon the aforesaid charge, unlawfully did conspire, combine, confederate and agree together, and with each other, to aid and assist the said John L. Smith, otherwise called Wiggles Smith, so being then and there a felon as aforesaid, by then and there causing the said John Keller to volunteer, convey and impart certain pretended information by the way of false and misleading statements to one James M. Leverton, then and there a captain of police of the Police Department of the city aforesaid and to other members of said Police Department, then and there engaged in developing the State's case in the premises, which said pretended information and statements then and there made by the said John Keller in the premises were false, corrupt and misleading, and then and there known by them, and each of them, the said Harry B. Wolf, Walter Socolow and John Keller to be false, corrupt and misleading all of which has a tendency to prejudice and injure the public, to the evil example of all others in like manner offending and against the peace, government and dignity of the State.

ROBERT F. LEACH, JR.,

The State's Attorney for the City of Baltimore.

Upon which was endorsed by the Grand Inquest of the State of Maryland for the body of the City of Baltimore:

"True bill, October 17, 1922.

Sherlock Swann, Foreman."

October 27, 1922.

It is hereby ordered by the Criminal Court of Baltimore City that Edgar Allan Poe, Esq., be and is hereby appointed as assistant counsel for the State to aid in the trial of the above entitled case, it being the judgment of the Court that public interest requires it.

JAMES P. GORTER,
Chief Judge.

30th October.—On motion and assent of State severance granted John Keller; Gorter, Bond, Duffy, Stanton and Stein, judges.

30th October.—Demurrer to indictment and each count filed in manner and form following:

DEMURRER.

And now comes Harry B. Wolf, one of the traversers in the above entitled case and demurs to the indictment against him filed in said case and to each and every count thereof and says that the said indictment and each and every count thereof is bad in substance and insufficient in law.

THOS. H. ROBINSON,
GERALD W. HILL,
FRANCIS NEAL PARKE,
SAMUEL K. DENNIS,
Attorneys for Defendant.

Issue joined before Gorter, Bond, Duffy, Stanton and Stein, judges.

Demurrer overruled by the Court.

30th October.—Wolf and Socolow each submit under plea— not guilty—and issue before Gorter, Bond, Duffy, Stanton and Stein, judges.

6th November.—Verdict—guilty as to Walter Socolow and guilty as to Harry B. Wolf.

6th November.—Judgment—sentence suspended pending motion for new trial.

6th November.—Motion for new trial filed.

8th November.—Motion in arrest of judgment filed.

9th November.—Petition and order of court extending time for signing bills of exceptions.

“Ordered by the Criminal Court of Baltimore City this 9th day of November, nineteen hundred and twenty-two, that the time for filing and signing the bill of exceptions in the above entitled cause be and the same is hereby extended until thirty days after final judgment of this Court as to the said Harry B. Wolf.

JAMES P. GORTER, Judge.”

28th November.—Judgment—Harry B. Wolf fined \$100 and costs.

28th November.—Harry B. Wolf released on own recognizance \$100 pending appeal as per order of court, Gorter, J.

28th November.—Order of appeal and affidavit filed as follows:

“Enter an appeal from the judgment in this case, on behalf of Harry B. Wolf, to the Court of Appeals of Maryland.

H. WEBSTER SMITH,
GERALD W. HILL,
SAMUEL K. DENNIS,
Attorneys for Harry B. Wolf.

AFFIDAVIT.

State of Maryland, Baltimore City, ss.:

I hereby certify that on this twenty-eighth day of November, in the year nineteen hundred and twenty-two, before the subscriber, a notary public of the State of Maryland, in and for Baltimore City, personally appeared Harry B. Wolf, the traverser in the above entitled cause, and made oath in due form of law that the appeal taken by him in the said cause is not taken for delay.

Witness my hand and notarial seal.

(Seal)

Daniel J. Meyler,

Notary Public.

7th December.—Sentence of John Keller suspended and paroled as per order of court filed, Gorter, J.

21st December.—Judgment as to John Keller suspended indefinitely, Gorter, J.

26th December.—Petition and order of court extending time for filing and signing bills of exceptions filed as follows, to wit:

The petition of Harry B. Wolf, by Samuel K. Dennis, his attorney, respectfully shows:

That the traverser, Harry B. Wolf, was sentenced on the twenty-eighth day of November, nineteen hundred and twenty-two, and on the same day he entered an appeal from the said judgment to the Court of Appeals of Maryland, and that the time within which the bill of exceptions in said cause should be settled and filed is about to expire and that the said Harry B. Wolf on Monday, the eighteenth day of December, lodged with the States' Attorney for Baltimore City the said bills of exception, which consists of four hundred and sixty-seven typewritten pages, wherein are incorporated one hundred and twenty bills of exception.

That the State's Attorney has this day informed your petitioner that he has been unable to examine said bill of exceptions

as prepared in view of the press of other duties and the voluminous record in this cause.

Whereof your petitioner respectfully prays that the time for filing and settling said bill of exceptions be extended.

As in duty bound, etc.

Harry B. Wolf, Petitioner.

By SAMUEL K. DENNIS, Atty.

ORDER.

Ordered by the Criminal Court of Baltimore on the foregoing petition this the twenty-sixth day of December, nineteen hundred and twenty-two, that the time for filing and settling the bill of exceptions in the above entitled cause on behalf of the traverser, Harry B. Wolf, be and the same is hereby extended to and including the 26th day of January, 1923.

JAMES P. GORTER.

26th January, 1923.—Bill of exceptions filed as follows:

BILLS OF EXCEPTIONS.

At the trial of the above entitled cause, in the Criminal Court of Baltimore City, before the Honorable James P. Gorter, Chief Judge, and the Honorable Charles F. Stein, the Honorable Henry Duffy, the Honorable Carroll T. Bond and the Honorable Robert F. Stanton, Associate Judges of the Supreme Bench of Baltimore City, the State of Maryland to maintain the issues on its part joined, offered the following testimony, viz.:

FIRST BILL OF EXCEPTIONS.

GENERAL CHARLES D. GAITHER, a witness produced on behalf of the State, after being first duly sworn, testified as follows:

DIRECT EXAMINATION.

That he is the Police Commissioner of Baltimore City and was Police Commissioner in August of nineteen hundred and twenty-two, being Friday, the eighteenth, when Mr. Norris was murdered, that he knew the traverser, Mr. Harry B. Wolf, and had known him for some time.

Q. Did Mr. Wolf visit you at your office on Friday, the eighteenth of August, after the murder of Mr. Norris?

(Mr. Robinson): What is the purpose of this, your Honor?

(Mr. Poe): We are going to show the conduct of the traverser if your Honors please—show how inconsistent it is with the conduct that we expect to show afterwards.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his First Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Witness, continuing): On Friday afternoon, August eighteenth, between four and five o'clock—I think it was nearer five, probably, than four, Mr. Wolf came in to see me and said to me that—

(Mr. Grason): We object to this on the part of Socolow, if the Court please.

(Objection overruled; exception noted.)

(Witness, continuing): Mr. Wolf said to me that this crime, having been committed, he wanted to help me and help the department to find the perpetrators of the murder, and I told him I was very glad indeed to have his help, and that I felt it would be a great advantage to the department. Mr. Wolf gave me a list of names, I think, if I am not wrong, about seven, of various men which he stated were from Pittsburgh and Philadelphia, who had been in Baltimore on the night of the seventeenth, Thursday, and who had been seen in the morning of Friday, the eighteenth, about half past ten o'clock, driving north on the Bel Air road very rapidly in two cars. At the time Mr. Wolf gave me this information and this offer of assistance, I knew at that time that we had sufficient evidence or information to lead us to believe that—

Q. What names did he give you? A. He gave me the name of a man by the name of Conroy, I think, or Conway, and the list of other names.

Q. Were any of them the names of the men who were afterwards apprehended and tried?

(Mr. Parke): May we, without interruption of the witness, reserve an exception to each of these questions and answers?

(Judge Gorter): You have it already, sir.

(Mr. Leach): No, that is a dangerous thing.

(Mr. Poe): We think they ought to state their objections as the questions are put, if your Honor please. We press the question.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Judge Gorter): They have an exception to anything that they object to and the objection is overruled. It is his relationship to all the parties before as well as afterwards. It is admissible evidence. We will give you the exception.

Q. (Mr. Poe): Now, General Gaither, what did you say to Mr. Wolf?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Mr. Wolf gave me these names and asked me to put a man on it who would go into the case and thoroughly investigate as to where these men were. I told him I very much obliged to him, and would do so. As he left my office he repeated his statement to me that he proposed to do everything he could to help the department to bring to justice the perpetrators of this deed.

Q. Did he return the next day?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony

to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. The next day, the twenty-sixth, I think it was, sometime in the morning of Saturday, Mr. Wolf came into my office again and asked me what I had found out in regard to the names of the men who he had submitted to me. I told him that we had found out that they were here in Baltimore that night, on Thursday night, but that they had had nothing whatever to do in any way that we had been able to discover, with the crime that had been committed; that they had been at a certain hotel in Baltimore and had spent some time there; had gone later to another downtown hotel and spent the night, and had left in the morning, and from our investigation we concluded that they were of an age that it was impossible for them to have had anything whatever to do with the case.

Q. Now, was there anything said as to whether this was an out of town job or a local job?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Mr. Wolf stated that he believed it was done by out of town men, and that nobody in Baltimore would have committed a crime of that character.

Q. Did he give you any reasons?

(Objected to; objection overruled; exception noted.)

Q. Did he give any reason why he believed—

(Objected to.)

(Judge Gorter): To every ruling of the Court you can have an exception.

(Mr. Parke): Then we need not rise to make the point.

(Judge Gorter): Where you make the point, if the ruling is adverse to you, an exception will be noted.

(Witness, continuing): Mr. Wolf said to me that he felt it was an out of town crowd and I differed with him, and after some little talk, he then said to me—why, this is Saturday, the nineteenth?

(Witness, continuing): Then he said to me, "This fellow Smith that is up here in the Central Police Station, wants me to act as his counsel; I will go in and interview him." And I said, "Well, that is very kind of you," and his intimation, of course, conveyed to me—

(Objected to.)

(Witness, continuing): I am not going to testify to it.

(Mr. Poe): Never mind, General Gaither; never mind about that; never mind intimations.

(Mr. Grason): We move to strike out what he said about Smith, as not responsive to the question.

(Objection and motion to strike out overruled; exception noted.)

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. (Mr. Poe): Was there or not anything said to you by Mr. Wolf at that time as to whether he would represent any of these men?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventh Bill of Exceptions, which is accordingly done the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I think Mr. Wolf told me he would not.

Q. He told you that he would not? A. Yes, sir.

Q. What Smith are you referring to now? A. John L., sometimes known as Wiggles.

Q. Who had been arrested up to that time? A. On Saturday Carey was under arrest and so was Lewis. I am not altogether certain right now whether Falasco had been taken up at that time or not. I know the other three were.

Q. Well, there were so many interruptions, I was not sure whether the statement was made by you or not as to what Mr. Wolf's proposition to you was.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighth Bill of Exceptions, which is accordingly done the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. No, sir. He said that Smith wanted him to represent him and that he would go up and have a talk with him.

Q. What else did he say—anything else? A. My recollection is that he said he would let me have what information was there, if it was of any benefit to the State.

Q. What was your reply to that? A. I told him I was very much obliged to him. That is my recollection.

Q. Now, do you recall whether or not the following week after Keller had been taken and had been turned over to the police, you received any telephonic message from Mr. Wolf or any visit from Mr. Wolf in reference to seeing Keller?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. On Saturday, the twenty-sixth, I should say, it was about three o'clock in the afternoon, Sergeant Stemple, of the Central Police Station, called me and said that Mr. Wolf was at the Central Police Station desiring to see Keller, and that the State's Attorney's orders had been that nobody was to see Keller, except in the presence of some of the officers, or something of that kind. I told Stemple that if those were the orders from the State's Attorney, undoubtedly no one could see Keller. He then asked me if I would speak to Mr. Wolf on the phone. I said of course I would. And so Mr. Wolf came to the phone and asked me—I could not recollect just the exact words now—but that Keller was held as sort of State's witness, that he was there and that nobody could see him without permission of Mr. Leach. He then said to me, "Would you mind asking the State's Attorney to let me see Keller; you have had him long enough; I would like to have a talk with him." I said, "Why, of course, I would do that." And I called up the State's Attorney's office. I asked Mr. Wolf to wait at the Central Police Station until I

could communicate with him. I called up the State's Attorney's office. Mr. Leach was busy. I got Mr. O'Connor on the phone. I made Mr. Wolf's request known to him and asked him if Mr. Leach wanted that order enforced. He came back in a few minutes and said he did. I called up the Central again and Mr. Wolf came to the phone and I gave him the message, that it would be impossible for him to see Keller.

Q. Now, after Saturday, the nineteenth of August, did you have any talk with Mr. Wolf with reference to this Norris murder? A. No. I didn't see Mr. Wolf in regards to it after Saturday, except to talk over the telephone with him, the following Saturday; except he came into my office for a few minutes on the evening of Friday, the twenty-fifth, after the publication in the paper there, but we had very little—no discussion whatever as to the merits of the case of any kind; it was a private, personal conversation between us.

Q. Now, what steps, if any, were being taken by the police authorities in the meanwhile looking to the apprehension of those who had been guilty of this murder?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Tenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ELEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. Poe): Just in a general way, I mean.

A. The entire department—the detective bureau in charge of Captain Burns had detailed certain members on the case—the various districts—

(Witness, continuing): The various districts had been detailed in plain clothes and in uniform, looking for Hart and Socolow and looking for the automobile, and, in fact, practically every man in the department was endeavoring in some manner or shape to bring evidence of any advantage to the department and turn it over to the detective bureau for investigation and report. That is the only thing in a general way that I can tell you, gentlemen.

CROSS-EXAMINATION.

Q. (By Mr. Wolf): Now, General Gaither, a question or two, please, sir. On the Friday, which was the first visit to your office by me, I told you, sir, that if there was anything I could do to help the department, I would do it, didn't I? A. Yes, certainly.

Q. Now, then, in that connection I told you that I had gotten what I thought was very valuable information about two men, or about two cars with out of town men in it, didn't I? A. Yes.

Q. Now, if you don't mind, let me repeat that. Didn't I say to you I had gotten information that two high powered cars, a Lincoln and a Daniels, had gone to one of the hotels uptown in the neighborhood of one o'clock Friday morning—am I right about that? A. Yes.

Q. And that they had left that hotel about two o'clock the same day and had gone to the Emerson, registered there at the Emerson, and that on Friday, the same day of the murder, around the neighborhood of ten o'clock, were seen going hurriedly out the Bel Air road; that they were strangers from out of town, from Philadelphia, Pittsburgh and other out of town points? A. Yes, sir; I think so.

Q. And I told you if I could give you any aid, I would be glad to do it? A. Yes, sir.

Q. And the next day I did come back and report to you? A. Yes—asked me what I had found out.

Q. And when I came in I said, "Now, General Gaither, this looks like a Cugino job." I don't know whether you remember it? A. I remember the Armiger job.

Q. Where men came from out of town in a machine and smashed a window in broad daylight and shot a pedestrian on the street and got away exactly like this. Do you remember I called your attention to that? And do you recall my answer to you? A. I don't remember the answer you gave me, but I remember what I said to you.

Q. (Mr. Poe): What was it? A. My answer was, "That is all right, Mr. Wolf; do you suppose that these men came here two weeks ago and stole a tag of a local car and put it on another car; these are out of town men; do you think they would do that?"

(Mr. Wolf): Well, I don't recall that.

Q. But didn't I tell you to get two smart fellows and put them on that and let them run it out? A. Yes.

Q. General, just at this point, you mentioned about a tag being on this car in connection with the Norris case. Do you remember it was a fake license tag on the Cugino car in the Armiger case, where they smashed the jewelry store window? A. Yes; my recollection is these fellows had stolen this tag and brought it here.

Q. I mean, in both instances fake licenses were used on both cars? A. That is what I mean.

Q. You did get your men busy on that tip, didn't you, General Gaither? A. Undoubtedly. I ran down every tip that was given me, by anybody, particularly from you, sir.

Q. Thank you, sir. Now, General Gaither, in addition to that, didn't you have every member of the department on their toes, so to speak, to locate whatever they could in the way of information? A. I hoped to have them, sir.

Thereupon, CHARLES H. BURNS, a witness of lawful age, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. And you are Captain of Detectives of Baltimore City? A. Acting.

Q. On Friday, August 18, 1922, did you receive a report of the holdup and murder of Mr. Norris? A. I did.

Q. About what time, sir? A. About nine-thirty.

Q. Where at; what corner? A. Park Avenue and Madison Street.

Q. Now, acting on any information you received, if any, what did you do? A. I sent two men out on the job and afterwards went out myself, about 10 o'clock.

Q. Ten o'clock in the morning? A. We then went to the hospital and saw the man Norris, his body there. He was dead. We then went to East Baltimore and thereupon got some information with regard to whom had did this job.

Q. Acting on that information, for whom did you seek; whom did you seek?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eleventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWELFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Answer, please, Captain? A. We sought Jim Hart, Socolow, Smith and Lewis.

Q. Do you know whether or not Smith and Lewis were apprehended? A. Smith and Lewis were apprehended that afternoon by the Baltimore County men.

Q. The same afternoon, August 18th? A. Yes, sir.

Q. By the Baltimore County men at Essex? A. Yes, sir.

Q. Where were they brought—to the city? A. To the Central District Police Station.

Q. Who else were arrested that day, if anyone? A. Country Carey.

Q. When and where? A. He was arrested at the Northeastern Police Station.

Q. When? A. I think in the afternoon.

Q. What date? A. On that date of August 18th.

Q. Did you continue your search then for Hart and Socolow? A. We did.

Q. Now, directing your attention to the morning of Saturday, August 19th, which was the day following the murder, did you receive any communication from Mr. Harry B. Wolf, the traverser here? A. I did. I received a telephone message from Mr. Wolf. With regards to a hearing of Smith and Lewis in the afternoon.

Q. And where was Mr. Wolf, if he said? A. At the Central Police Station. He telephoned to me and said—

(Objected to.)

(Mr. O'Connor): On Saturday morning, August 19th?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twelfth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. He said, I don't think those men, Charlie, have anything to do with this case. He said, I want to see if I can get them out. I said, Well, I will see you this afternoon. In the afternoon I think I got in touch with you, and you and Sergeant Murphy went over there to the Central District. The hearing was for the afternoon of Saturday.

Q. Now, any other persons apprehended in the meantime, sir? A. Well, I don't know whether Jenkins was apprehended then or not. He was arrested by the Western District officers, and I cannot recall the day he was arrested.

Q. Was or was not a man named Falesca arrested? A. Yes. He was brought in Saturday.

Q. On Sunday morning what were you engaged in, the Sunday and Monday following? A. Sunday and Monday we had different people coming in there and seeing these men to identify them. We had Wiggles Smith identified. Falesca was also partially identified. Allers was identified on Friday.

Q. Now, on Tuesday morning— A. The picture of Allers.

Q. Now on Tuesday morning, August 22nd, what if anything occurred?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FOURTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. On August 22nd Allers came into the Detective Department and surrendered to the Detective Department.

Q. What was done with him?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fourteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. We brought him to the back room and had him questioned and then sent for you and Mr. Leach. Meantime, Captain Leverton came in with Heard.

Q. That is George Heard? A. With George Heard.

A. Well, he asked me if I had Allers; said he had been looking for Allers.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign

this his Fifteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Well, I told him I had Allers.

Q. You continued to question Allers, is that correct? A. Yes, sir.

Q. Now, on Tuesday night, the night of the twenty-second, what, if anything, did you do?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. On Tuesday night, August 22nd, we went to the Northern District and after we had returned from there we had a number of people who tried to identify part of the men we had in custody, and also Country Carey we had out there, and we came

back from the Northern District and we got in touch with Allers again and along towards morning, in Mr. Leach's office—

Q. That was the morning of what day? A. The morning of Wednesday; Wednesday morning.

Q. With respect to the Norris murder, what Wednesday? A. The Wednesday following the Norris murder on August 22nd I think or 23rd.

Q. The twenty-third? A. The twenty-third I think. Allers confessed.

Q. Now, with the information that you had as the result of any confession to which you have referred, whom did you seek?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventeenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. We then arrested Blades—and Heard. We arrested Blades' brother that time, and we had the wrong Blades, but we afterwards got the right Blades on Thursday.

Q. And, of course, at that time you had in custody John L. Smith? A. Wiggles Smith and Lewis, and also the two other men, Jenkins and another man from Philadelphia, that belonged in Philadelphia.

Q. Now, acting on the information given you by Allers, if any was given, did you search for an automobile? A. We had the automobile located.

Q. What automobile, and what make?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. A Hudson machine with wire wheels. We had that located Tuesday night, before I went back to Allers, before Allers had confessed.

Q. Now, on Wednesday, August 23rd, was that automobile seized? A. That automobile was taken into possession—of course we took it in custody that night.

Q. From where? A. We were watching the automobile. We did not take possession of it. We were watching it, and on Wednesday morning we took the automobile.

Q. You took the automobile from where? A. From Hart's garage on Highland Avenue, No. 88. Garage number 88 on Highland Avenue. No. 85065 was the tag that was on it when the robbery was committed. I don't know what Heard's number tags were.

Q. Now, directing your attention then to the afternoon of that same Wednesday, August 23rd, where were you about

three or four o'clock in the afternoon? A. Wednesday, the 23rd?

Q. The same afternoon—did you see Allers any more that day? A. I believe I did.

Q. Were any men taken before him? A. Oh, yes. We taken Smith and Carey and Heard and Blades before Allers, and had them identified. Also had Allers to repeat his statement in front of them.

Q. (Mr. O'Connor): While you were doing that, did you or did you not have any communication with Mr. Wolf?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Nineteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. O'Connor): Now answer, and detail the conversation?

A. Mr. Wolf called me up on the 'phone—

(Mr. O'Connor): This is Wednesday, August 23rd?

(Witness): Yes, sir.

Q. Now, relate the conversation to the Court? A. Mr. Wolf called me up on the 'phone—

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twentieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. And he congratulated me and the Police Department in general for the way they had handled the case in getting those fellows, and he said to me, I have got a man named Jenkins and, he says, I guess you will release him in the morning. I said, I will. Well, he said, don't release him until I come over. I said, I will not. I said, I also have Falesca over here and I am going to hold him until Mr. Curran comes over; that I was going to release everybody now with the exception of the ones who really were in the murder.

Q. What, if anything else, did he say? A. He also said to me, well, I may have something for you tomorrow.

Q. May have something for you tomorrow? A. Yes, sir.

(Mr. Parke): We ask that that be stricken out.

(Motion denied and exception noted.)

To which action and ruling the defendant objected, but the Court denied the defendant motion, and permitted said testimony to remain in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twenty-first Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. (Mr. O'Connor): Wednesday afternoon, August 23rd? A. Yes, sir. About four o'clock in the afternoon, somewhere around there.

Q. Now, Captain, on Thursday afternoon, August 24th, at or about four or five P. M., where were you, sir? A. On Thursday afternoon?

Q. The following day, sir. I will ask you, did you see Captain Leverton that day, sir? A. Yes, I saw Captain Leverton Thursday morning around about twelve o'clock, noon.

Q. Did you see him again in the afternoon? A. I did, yes, sir.

Q. Alone or in company with anyone else? A. I saw him in company with the boy Keller.

Q. The boy John Keller? A. Yes, sir.

Q. Where were they? A. They came around to my office around about half-past five in the afternoon.

Q. And what was done there?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twenty-second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. O'Connor): Now, just answer.

A. Well, I got to talking to Johnny about the box. They had recovered the box, Captain Leverton and Inspector Lurz, and I got in conversation with Johnny in reference to the box and he went on to tell about two men.

(Witness): He went on to tell about meeting two men at Baltimore Street and Patterson Park Avenue I think, and the two men taken him to a garage and he made a mistake in the garage, and then them shoving a pistol at his side and going back to No. 88 garage and then getting the box and tags and throwing them in a pond; and he went on to say one man was Chicago. I said, Johnny, can you identify anybody here? He said yes, I think I would be able to identify Chicago, so I had at that time a man by the name of Joe Arthur there, and I got a man to bring Joe Arthur in. I said, Is that Chicago, Johnny, after Arthur went out? He said, no. I had Fats Novak in there at that time. I brought him in. I said, Is that Chicago? He said, no, and I had a lot of photographs there on my desk.

Q. Whose photographs? A. Wiggles Smith's, Country Carey's, Socolow's, Hart's, and I think Allers', I know Allers' and Lazy Lane's, Butts Preller's and a couple more of them, and I showed him those pictures.

Q. Any conversation with Keller with respect to Benny Lewis or a picture of him?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twenty-third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I hadn't a picture of Benny Lewis; I had a picture of his brother.

(Mr. O'Connor): All right, sir.

A. I showed him one picture, and then another, and he finally said he thought that Allers was Chicago.

Q. What, if anything, did he say with respect to the pictures of Smith and Hart and Socolaw? A. He did not seem to know any of those at all.

Q. Did he say he did or did not know any—

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twenty-fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. He did not know them. So then I said to Captain Leverton, You take this man to the Central District and see if he can identify Allers, although I knew that Allers was not there Sunday night because Allers had told me that he was in Atlantic City.

Q. And what had you done on that statement? A. I had verified that, that he was in Atlantic City.

Q. And Keller had told you that these men had gone to the garage— A. On Sunday night.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twenty-fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Who was present at that time, on that Thursday afternoon, August 24th? A. Captain Leverton was there and Sergeant Parr and Sergeant Murphy and Sergeant Warthen.

Q. Well, who went, if anyone, with Captain Leverton and the boy to the Central Police Station as you sent them? A. I don't know as anybody went there except himself.

Q. Did you see Keller any more that day? A. Yea. He was brought back then that day around about half past six o'clock or quarter to seven I guess, somewhere around that neighborhood, and I had another talk with him again, and I understood—

Q. Just relate the conversation? A. I had a talk with him.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered,

whereupon the defendant excepted, and prays the Court to sign this his Twenty-sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Just relate the conversation? A. I had a talk with Keller again and he went on about the same way and he said that he thought that this man Allers was Chicago. I then said to take that man over to 909 Broadway and find out if we could not identify him as belonging there, which we did. At least I did not, but I sent men.

Q. At that point was anything said by Keller or in Keller's presence which was additional to what he had said to you that afternoon?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twenty-seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. O'Connor): Answer the question.

A. He referred then to—he had been saying "Woggles" all the time—and he referred then to a man by the name of "Wiggles" Smith, which we picked up at that time that he knew more about Smith than he was telling us.

("That he knew more about Smith than he was telling" stricken out.)

Q. Was anything said by Keller with respect to any statement that he heard this man "Chicago" make?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twenty-eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

TWENTY-NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Why, he made a statement that Chicago had stated now is the time, as "Wiggles" Smith has been identified, now is the time to frame Smith and Carey.

Q. And who else, if anyone? A. And Benny Lewis—as they are arrested.

Q. To frame who? A. To frame Smith, Carey and Lewis.

(Mr. O'Connor): That it was Smith and Carey and Lewis?
A. Well, I don't know as to Lewis—Lewis never was in no—I did say Lewis, yes, and I think he did say that possibly.

Q. Now, where was Keller sent? A. We sent Keller to 909 North Broadway and afterwards found out he belonged there and did live there and of course we brought him back, and when we brought him back we took them upstairs. Then I think shortly after that to Mr. Leach's again.

Q. Was Socolow's name mentioned at all during the conversation with Keller on that Thursday night?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Twenty-ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Oh, yes, he mentioned Socolow, he mentioned Socolow as being out in the cemetery.

Q. But I mean before you sent him to 909 North Broadway?
A. I had showed him Socolow's picture, and he did not deny that, he could not identify it at least, he could not identify it at least I meant to say. He said he could not.

Q. On that Thursday night, August 24th, while Keller was in custody, did you have any conversation with Mr. Wolf, on Thursday night?

A. Yes. I had a communication that night around about half past six.

Q. Half past six? A. Mr. Wolf called me up and asked me if I still had the boy, and was taking good care of him and

I said yes, and we are taking good care of him; Captain Leverton has the boy.

Q. He asked you about the boy? A. Yes, sir.

Q. Now, what was done then with Keller? A. Keller was taken upstairs then and questioned by Mr. Leach.

Q. I mean later in the night? A. Later on in the night we took him out to Home, Sweet Home Cemetery, I guess after twelve o'clock midnight, and we went all through there and we found a bag down close to the road where Keller said Socolow and Hart and himself had stayed there the previous day.

Q. And you were looking for whom? A. We were looking for Socolow and Hart.

Q. Then Keller was kept where for the night? A. In the Central District.

Q. When you refer to Socolow, you refer to Walter Socolow, the traverser here, don't you? A. Yes.

Q. And James Hart, who has since been convicted of murder? A. Yes.

Q. Did you subsequent to that time have any conversation with Mr. Wolf? A. After that? Yes; I believe I did. One afternoon Mr. Wolf and I just met each other in the corridor of the Court House. I think that was the Saturday following the recovery of the box.

A. And the only thing that was said there at that time, Mr. Wolf said you got me in a nice fix. I said I haven't got you in a nice fix, I don't want to get in this thing at all, you go see Captain Leverton.

Q. You referred to the box and the tag which you saw that Thursday afternoon when Captain Leverton and Keller came in? A. Yes.

Q. Is this (indicating) the box and the tag that you refer to, which you saw that day? A. Yes, sir.

Q. On that Thursday, the same day, August 24th, did you have occasion to go before the Grand Jury of this city? A. I did, yes, sir.

Q. In what cases, if any?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirtieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRY-FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I went before the Grand Jury with reference to Smith, Country Carey, Socolow, Hart, Allers, Blades and Heard. I don't remember the date, Judge. It was the following Thursday I think. I don't remember the date at all but I know that I went before the Grand Jury. But I don't remember the date.

(Mr. Robinson): Thursday following what?

A. Following the finding of the tag I think.

Q. And do you know the date you found the tags? A. I didn't find them. Captain Leverton found them, Captain Leverton and Inspector Hurley. I may give you that date. It was, let's see—the 22nd—the 18th was Friday, Saturday the 19th, Sunday the 20th—the 23rd—the tags were found on the 24th of August, that was the date.

Q. (Mr. O'Connor): And that was the Thursday after the murder? A. The Thursday after, yes.

CROSS-EXAMINATION.

Q. (By Mr. Robinson): Captain, how many people did you arrest during this time, in connection with this matter? I do not mean you, but how many were arrested? A. Well, they arrested seven or eight.

Q. Only seven or eight? A. Well, maybe possibly more.

Q. Well, wasn't it ten or fifteen? A. I will give you just about—there were four, five—then there was Jenkins and another man—that was seven—and the two women—that was nine—and there was Heard and the two Blades was eleven—I guess in the neighborhood of possibly fifteen or sixteen.

Q. You arrested some Philadelphia people, didn't you? A. One man. I counted him in. We didn't arrest him. He was brought in here by the taxicab company.

Q. He was arrested by the State Police or by the authorities? A. Yes, he was brought in.

Q. Arrested by the State Police or by the authorities, fifteen or sixteen? A. Yes, I think so.

Q. Wasn't there about twenty? A. I would have to look over the arrests to give you the exact amount.

Q. The two Felchler boys? A. No. If they were arrested by the Central District, now I don't know how many arrests were made by the different districts, but what came under my supervision, about fifteen or sixteen. I don't know what they did.

Q. You don't know whether that was all the people who were arrested on suspicion? A. I could not say. I could not, no, sir. The districts may have arrested other men.

Thereupon, SERGEANT SIGMUND HIMMELMAN, a witness of lawful age, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Desk sergeant at the Central Police Station.

Q. Were you acting as a sergeant of police at the Central District on Saturday, August 19th, 1922? A. Yes, sir.

Q. Do you know Mr. Harry B. Wolf? A. Yes, sir.

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

Q. What time did you see him? A. In the morning about nine or ten o'clock, the first time.

Q. What was he doing there, if you know? A. He went back to see the prisoners.

Q. To see what prisoners?

(Objected to.)

A. Lewis and Smith.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-first Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTY-SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. And when you refer to Smith, you mean John L. Smith, do you? A. Yes, sir; and Benny Lewis.

Q. Do you know how long he was back there? A. No, sir; not at that time.

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

Q. What time? A. Around about one o'clock he came in the station house.

Q. First of all, did you hear any conversation that he had in the morning? A. In the morning he called Captain Burns up over the independent phone—the C. & P. was busy—and he said to him, Charlie, when are you going to have a hearing for these fellows? So I don't know what the answer was. He said, you are on the wrong track, you have got the wrong men.

(Motion to strike out denied and exception noted.)

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTY-THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Was that after or before he had talked to Smith and Lewis the first time? A. That was after he came out of the cellroom. I saw him when he came out of the cellroom.

Q. Later in that day you say you saw him, about what time was that? A. About quarter of one; I had just finished my lunch.

Q. Where did he go? A. He came and asked me if he could see Benny Lewis. I told him yes.

Q. And where did he go, if you know? A. He started back towards the cellrooms, and as he went back towards the cellrooms Inspector Hurley came in and said to me, what does that fellow want?

Q. What happened after that? A. I was instructed—

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTY-FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. He went back and saw the prisoners, Benny Lewis and "Wiggles" Smith.

Q. That is the Saturday following the murder, the day after the murder? A. Yes, sir; about quarter to one.

CROSS-EXAMINATION.

Q. Sergeant, now the murder occurred on Friday, the 18th? A. Yes, sir.

Q. Up to the Thursday following the murder the men who were detained at the Central Police Station, all of them, including Smith, Carey and Lewis, the Blotter merely showed they were held for investigation, isn't that true? A. I don't know anything about Thursday, I wasn't there up until Thursday.

Q. What did the Blotter show as to the man? A. Held for investigation.

Q. Held for investigation? A. Yes, sir.

Q. Therefore, there was no formal charge against any of the men, was there? A. Not at that time, no, sir.

Thereupon, INSPECTOR CHARLES E. HURLEY, a witness of lawful age, produced on behalf of the State, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. O'Connor): You are Inspector of Police Hurley? A. Yes, sir.

Q. Commanding what districts? A. Central, Southern and Eastern, First Division.

Q. Were you in command of those districts on August 18th, 1922? A. Yes, sir.

Q. It happened on that date, sir? A. Yes, sir.

Q. Upon receiving that report what did you do? A. Immediately went to the scene of the murder at Park Avenue and Madison Street and from there to the hospital and met Captain Burns and the other detectives working on the case.

Q. What did you do after that? A. Then started out to see what information we might get as to who had committed the crime, and first learned—

Q. On the night of Friday, August 18th, which was the night of the murder, were any arrests made?

(Objected to.)

A. Yes, sir.

Q. Did you interview any prisoners? A. Yes, sir.

(Objected to.)

Q. Who were they? A. About a few minutes after seven—

(Mr. Dennis): If it could be understood that we object to all this sort of testimony leading up to the twenty-third of August, then we won't annoy the Court and won't take—

(The Court): You mean everything that is before the twenty-third of August?

(Mr. Dennis): Yes. That is the date on which Wolf, Socolow and Keller met. That is the date charged in the indictment as the date of the offense.

(The Court): It is an objection on the ground of relevancy.

(Mr. Dennis): Yes, your Honor.

(The Court): And we will allow you to have an exception to all of that. But if there is any other reason why you object to that evidence, hearsay or any other ground, you must make it. It is relevancy alone that we are ruling on.

(Mr. Dennis): And we will make those exceptions from time to time as they occur, but the blanket exception goes to anything that occurred before the twenty-third?

(The Court): On the ground of its not being relevant to the issue.

Q. (Mr. O'Connor): Now, on Friday night, August 18th, 1922, the night of the holdup and murder of Mr. Norris, you had in custody whom? A. Had in custody John L. Smith alias "Wiggles," and Benny Lewis and also "Country" Carey, Charles Carey alias "Country" Carey.

Q. Now, on Saturday, the following day, August 19th—well now, on this Friday night, did you interview the prisoners? A. There were only two that I talked to.

(Mr. Robinson): Do we understand that we have an exception to all of these questions?

(The Court): To everything that occurred prior to the 23rd, on the ground of relevancy.

(Mr. Robinson): Or on any other ground at all?

(The Court): No; not unless you make the objection and call our attention to it.

(Mr. Robinson): Then we will object to every question, sir.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTY-FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. (Mr. O'Connor): Now, on Friday night you did interview the prisoners? A. Charles L. alias "Wiggles" Smith and Benny Lewis.

Q. On Saturday morning, Saturday, the following day, August 19th, did you see Mr. Wolf, Harry B. Wolf? A. Yes, sir.

Q. You know Mr. Wolf, do you? A. Yes, sir, I know him as counsel, engaged in the practice of law, criminal and all other law.

Q. You saw him Saturday at what time? A. I seen him Saturday morning somewhere between half past nine and ten at first.

Q. What conversation if any did you have with him?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTY-SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. He asked permission to see Smith and Lewis.

Q. That is at nine-thirty on Saturday morning? A. About that time, between nine-thirty and ten.

Q. Was permission granted?

(Objected to.)

A. Yes.

Q. Did he see them?

(Objected to; objection overruled and exception noted.)

A. He went back to see them.

Q. For what length of time did he converse with the prisoners.

(Objected to.)

A. I just don't know how long, but a short while, and he came back and see me again.

Q. Did you see him later in the day of Saturday, August 19th? A. Well, I haven't finished this time, this particular time after he had been—

(Mr. Robinson): Here is something that occurred long before any allegation that any conspiracy was formed. This is on the 19th, before there is any allegation of any conspiracy having been formed or made, and so far as the State has indicated nothing on the part of Mr. Wolf—all this insinuation and innuendo is brought out to affect his fame and honor and I respectfully protest that it isn't admissible.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTY-SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. So then, on the same occasion, after Mr. Wolf was through talking with the men in the cells, he came out in the corridor and requested that I would allow them to read the papers and also let them have some silver change we had, and I granted that and the men were given the papers through his request. That was the two occasions. He went back the second time to let them know they were going to get the papers and some change and magazines.

(Mr. O'Connor): Now on the afternoon of Saturday, August 19th, did you see Mr. Wolf? A. Yes.

Q. What time?

A. In the afternoon Mr. Wolf was over there. I just don't know exactly what time, but it was along possibly about quarter of four.

Q. What conversation, if any, did you have?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTY-EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. At that time Mr. O'Connor was there himself, if I remember right.

Q. What conversation was had?

(Objected to.)

A. And Mr. Wolf requested what they were going to do, going to lay charges against those men or hold them on our books as held for an investigation. After consulting Mr. O'Connor we informed Mr. Wolf that we had certain reasons why we wanted to hold them and we would be either ready by Monday at four o'clock to lay some charge against them or we would dismiss them, and Mr. Wolf consented to that and we held them on until further information, which did develop during that time, and we prepared and charged them with the murder and holdup, that is, Smith and Lewis with being accessories.

Q. Did you have any further conversation with Mr. Wolf?

A. Now Mr. Wolf—yes, I met Mr. Wolf Monday. He did not show up, but out in the alley-way of the station house—

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

THIRTY-NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Witness): He was about to go up to the Traffic Court, and I spoke to Mr. Wolf there about going to hold these two men. He then asked me, Did you release Carey. I said, He has been released. He said, Did they give him his money. I said, I don't know, I did not release him but he was released through orders of Captain Burns.

Q. What, if anything, did Mr. Wolf say on Saturday afternoon about the course you were pursuing?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Thirty-ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Mr. Wolf in his remarks said this was pinhead policing; you are on the wrong track, you haven't got the right men and this is pinhead policing, getting these men.

Q. Now on Thursday, August 24th, at or about five P. M., where were you, sir? A. Thursday, August 24th? Oh, that is the occasion that I saw them in Detective Burns' office when the little Keller boy was there and Captain Burns was showing him some photographs and he had brought in the different men.

(Conversation with Keller objected to; objection overruled and exception noted.)

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fortieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Well, what did Keller say and do at that time?

(Mr. O'Connor): Answer the question.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign

this his Forty-first Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Then Keller said he thinks that this looks like "Chicago," pointing to a picture of Allers.

Q. What, if anything, did he say with respect to other pictures shown him?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Forty-second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. The other pictures, he didn't know them, he didn't pick them out, but this particular man, Allers' picture, he identified as one of the two on the story which he told from the time they led him from Baltimore and Broadway up Broadway.

Q. Did he repeat that story in your presence, Keller?

(Objected to.)

Q. Well, now, what statement did he make?

(Mr. Robinson): What story?

(Mr. O'Connor): He referred to a story Keller had told about meeting two men. Did you hear that story?

A. Keller told me the whole story. He told me two stories.

Q. When was that; what was that story?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Forty-third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. Robinson): Your Honor rules that he can tell all the conversation?

(The Court): All that Keller said.

(Mr. O'Connor): That is what we want—all that Keller said.

(Mr. Robinson): I think it is very material to have what was said by the officers at the time.

(The Court): You can bring all that out.

Q. (By Mr. O'Connor): Were you in the office of Detective Captain Burns on Thursday afternoon of August 24th? Now, will you relate as nearly as you can what was said by John Keller or anyone in his presence to him on that afternoon?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Forty-fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. On this occasion, when we were talking in Captain Burns' office, we were showing the pictures to the boy, and he said that looks like the man when we showed him the picture of Allers. Then Captain Burns suggested that we take him over to the Central Station, so I went over to the Central Station with Captain Leverton, Johnny Keller, and when I went upstairs into the matron's room, the upper floor, divided by a hall about four feet wide, I there found Mr. O'Connor and a notary public in Allers' room and Allers reading a paper, a booklet form. Then I told Mr. O'Connor that I had this boy here, and waited possibly twenty minutes or so, waiting for Allers to finish reading this document.

And I went into the matron's room and sat this boy on a chair, and Captain Leverton walked to and fro nearby, but while he was out in this little hall Mr. O'Connor came into the matron's room, and I introduced Mr. O'Connor as assistant State's Attorney, and then he sat down on a chair and I sat down near the boy, and then the boy started to tell us the story of him meeting—first of all, that he himself had just come off of a trip of a deep water boat and he was coming up Balti-

more to Broadway, and at Broadway and Baltimore he met two strange men, and these men asked him if he wanted to make some money, and he told them yes, and they told him to come and go with them. They carried him up to a certain street, and from that street they got on a car and went east to Highland Avenue, and then these men told him they wanted him to go to garage 88 and open the door, and he said he made a mistake and he went to 85, and one of the men came up alongside of him and shoved a pistol in his side and said go on down to 88; and he said, I hesitated. And he said, Go on, or I will knock you off. And the boy said, I went down that far. And they said, We will look after your end of it; we will be in the weeds; nobody will hear you. And he went to 88, and after he opened the door of 88 then these two men came over and went in the garage, bringing out the box and tags, and bag, and he describing the bag of money, and said that he carried the bag. So they carried the bag up to Highland Avenue to a swamp, and there it was thrown into the swamp.

He says, we opened the bag then and we got in the neighborhood of Broadway and Preston, and while under the bridge there one of these men who calls himself Chicago and the other was Boston, Chicago said to Boston, Now is the time to frame up Socolow, Woggles and Carey. And shoved him some money, and gave him ten dollars the first time. And we asked him why he knew there was money in that bag. He said some nickels had dropped out of the bag. He said there he left those men. And immediately, when he made that remark, I looked at Mr. O'Connor and I said, "This don't look good."

(Mr. Dennis, interrupting): We object to that, your Honor?

(The Court): In his presence?

(The Witness): Keller's presence. I said, This don't look good; this is the wrong story. Tell us something about this frame-up business. And he said, That's right. And he hung to it for quite awhile.

Then I immediately brought him over to headquarters. Shortly after that I spoke to Mr. O'Connor and told him my opinion.

Q. Before you brought him to headquarters did you take him to Frank Allers? A. Oh, yes; that very night.

(Mr. Parke): I object to that, to this testimony, as to what took place before Allers.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Forty-fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness): After the boy had made this statement in the presence of Mr. O'Connor, then Captain Leverton being called over, he being nearby, he also made the statement in his presence.

Then we took him in before Allers when Allers was through reading his document there, and I said, Look at this man. And he said, Yes, that's Chicago; that's Chicago. I said, That's Chicago, of course. I said, All right; that will do. And I came out then talking with Mr. O'Connor and Captain Leverton, and we determined to bring him over to headquarters. We brought him over to headquarters, and he related the story there, and we determined to find out if he had associated with the people whom we had charged.

(The Witness): I want to go up to 909 Broadway.

Q. Just what took place. What was said in his presence?

A. I am through talking with Keller, except him repeating his story. And then he was ordered to be taken to 909 Broadway to see if he could be identified as one who associated with the people that lived in that house where he was. Then I ended with him for that day.

The following Monday I was asked by Mr. Leach to bring over this boy Keller, and about half-past eleven I arrived at Mr. Leach's office, and the boy practically repeated the same story for quite awhile, until he determined, just at one spasmodic moment, he said, "I will tell you the truth; I will tell you just what happened." Then Mr. Leach said to the stenographer, "Start off with an X-mark there."

Q. (By Mr. O'Connor): At that point, on the occasion of going to the Central Police Station, relate as nearly as you can what was said by Keller on Monday, which was Monday, August 28th, at the office of the State's Attorney Leach?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Forty-sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. In substance, he made one statement—

(Mr. Parke): We object to the substance.

(The Witness): I will give it positively, then.

(Objection overruled; exception noted.)

(The Witness): The statement was about the same that I have related that he made in the matron's room. After going over that several times, then suddenly he said, "I will tell you the truth how it all happened." Then Mr. Leach remarked

to the stenographer: "Start there with an X-mark," and then the boy told the story—

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Forty-seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness, continuing): —told the story of how he had been with Hart and Socolow from the Friday night or Saturday morning—Friday night, if I remember right. I want to get myself right now—Friday night; and how he had stayed with them; how he had remained in this Novak's house with them, and how that after they had read the papers—Socolow had read the papers about the confession of Allers—how they had taken a route up in the northern section of the city, and then turned and walked westward until they got to 22nd and Maryland Avenue; how that he, Socolow, and Keller, went into the drugstore, and Socolow used the phone and called for a taxicab, and after the taxicab came, that they went out to Mr. Wolf's house, and there they had first something to eat, and then sat on the porch, and Socolow was telling Mr. Wolf how he came to shoot Mr. Norris, because Mr. Norris had kicked him.

(Judge Duffy): What day is this that you are talking about?

(The Witness): This is the Monday following the Thursday that we took possession of Keller.

Q. (By Mr. O'Connor): Which would be Monday, August the 28th, would it not, Mr. Hurley? A. Yes.

(Judge Duffy): You took possession of Keller on the 24th?

(The Witness): Yes.

(Judge Duffy): And the following Monday, you are talking about something that occurred on the 28th?

(The Witness): Yes.

(Mr. Dennis): It is conceivable that when Keller is put on the stand he may feel like telling the truth here. I do not know whether he will or not. At any rate he is here and there is no reason and no excuse for using hearsay testimony as to declarations of Keller as against Wolf and Socolow. That is the point we make, sir, and we urge it with all earnestness and sincerity.

(Mr. Poe): If your Honors please, we feel that the point is a debatable point, and we do not press it.

(Mr. Robinson): Then we move to strike it all out.

(The Court): Strike out everything that has been said in the nature of a confession.

(Mr. Poe): He hasn't really come down to it yet.

(The Court): Then nothing goes out.

(Mr. Poe): If he testified to that as of Monday, if your Honor please, then that goes out.

(The Court): All right, it goes out by agreement.

(Mr. Robinson): We are objecting and they agreed to its going out, yes.

(The Court): Then it is ruled out.

Q. (By Mr. O'Connor): Coming back, Inspector, to Thursday, August 24th, the afternoon of which you took Keller to the Central Police Station, was the conversation which you narrated with him in the presence or out of the presence of Allers—you said you took him to the matron's room?

(The Witness): Out of the presence of Allers.

Q. Was it before or after he saw Allers?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Forty-eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FORTY-NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Before.

Q. Was that the first time that you heard him say that he had overheard the man known as Chicago make this statement, "Now is the time to frame Socolow, Woggles and Carey"?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Forty-ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. That is the first time.

Q. His statement was, "Now is the time to frame Socolow, Woggles and Carey"?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fiftieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Yes, that is the first time that I had heard it.

Q. Did he at any later time change the name of Woggles?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-first Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Yes.

Q. What did he say? A. He said he meant Wiggles.

Q. When and where?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. In the State's Attorney's office.

Q. (By Mr. O'Connor): Who else were present at the Central Police Station besides myself and—

(Objected to; objection overruled and exception noted.)

A. Captain Leverton and your Notary Public.

Q. Did you have any further conversation with Mr. Wolf after that on the Saturday—

A. I have not talked to him since the Monday following the murder.

CROSS-EXAMINATION.

Q. You stated that Mr. Wolf was down at your station house to talk with one or two fellows who were under arrest? A. Yes.

Q. At that time how many people were under arrest in connection with the Norris murder? A. I will name as many as I can for you. There was Pulaski and the two Felchers.

Q. They were let go? A. They were brought in and let go.

Q. Who else? A. There was Taylor and Jenkins.

Q. They were let go? A. Yes.

Then he had Lewis and Smith and Carey, later got Blades and Heard as accessories, and, of course, Lewis was indicted as an accessory, and Novak.

Q. Lewis was all right, was he, but the police got the wrong Blades? A. Yes, and we let him go.

Q. And at the time you had Smith and Carey there, and Mr. Wolf was visiting them, what was the charge against Smith and Carey? A. They were suspected of the murder, but the charge was: "Held for investigation." There wasn't any actual charge made against them. They were merely under suspicion, as were a number of other people at that time.

Q. The police also arrested a lot of women who were supposed to be connected with this affair? A. The detectives arrested two down in the country.

Q. They also arrested a man bound for Philadelphia the morning of the murder in a taxicab? A. Well, the State police picked him up as a suspect. We held him, I suppose, five days, four or five days.

Q. And you let Country Carey go how many times? A. Twice. And arrested him three times. We put him away the third time.

Q. Up to that time you were in doubt? A. Yes.

Q. You first were in and out with Country Carey, or, rather, he was first in and out? A. I might say to you that was done for a purpose.

Q. Let me ask you this, Captain: You say Mr. Wolf was down there and asked your permission to allow these two men,

Carey and Smith, to have magazines, that is correct, isn't it? A. And papers; I won't be positive—

Q. You had no objection to that at all? A. No objection at that time.

Q. He also wanted them to have some money? A. Yes, to buy cigarettes.

Q. And you had no objection to that or at any other time? A. No, sir.

Q. You said Mr. Wolf was down there representing these men, that is your statement, isn't it? A. Yes, told me he represented them. Mr. Samuels was with him representing Carey, and Samuels came another time and said he and Mr. Wolf were working together.

Q. Mr. Wolf asked you when you were going to prefer charges against these men? A. Yes.

Q. They had been in your custody for some days at that time? A. We took them in on Friday about seven, and that was the following Saturday, maybe about twenty hours.

Q. That was entirely satisfactory to Mr. Wolf to hold them, wasn't it? A. Until Monday.

Q. On Monday you found some reason for holding them? A. Yes.

Q. And you did hold them? A. Yes.

Q. When did you have a hearing? A. Well, they were presented before the Grand Jury without coming before the magistrate.

Q. Did Mr. Wolf have anything to say to them or do with them on Monday after you got some real evidence against them? A. Nothing—the only thing concerning Mr. Wolf was my conversation with him at the entrance to the side door that referred to Country Carey.

Q. That was when he was going to the Traffic Court and not into the Police Court? A. Yes, that is the idea.

Q. On whose orders did you release Carey? A. I did not release him. The books called for: Investigated and dismissed by Capt. Burns.

Q. He was the head of the detective department at that time?
A. Yes.

Q. Where is this boy Keller been since the 24th day of August? A. In the custody of the Central Police Station.

Q. Has he been allowed any visitors? A. His mother has been to see him and his father and sister and his counsel.

Q. How often has his mother been allowed to see him? A. I think twice. She did not care to come any more and one time recently.

Q. How often has his father been permitted to see him? A. On one occasion.

Q. How often has his brother and sisters? A. His brother has not been to see him but his sisters several times.

Q. What counsel has seen him? A. Mr. Lake.

Q. He was only engaged or appeared as his counsel within the past week? A. Possibly about that long.

Q. Now then he had counsel early in the game, Mr. Di-marco? A. He never got into it as far as I know. He made application to the Court but withdrew it.

Q. How is this boy held, as a witness? A. As a State witness, also with the knowledge that he is under indictment in the conspiracy charge with Mr. Wolf.

Q. Is there a warrant out for him? A. No, but there is generally a capias.

Q. Is there a capias? A. To the best of my knowledge—I have never received it.

Q. Is he being paid as a witness? A. No, sir.

Q. Just being fed? A. No pay, to my knowledge.

Q. How often have you personally talked to this boy about this case? A. Well, I talked to him possibly—in the beginning the first week maybe three or four times but recently very little—

Q. The first week you talked to him three or four times and you said a little while ago he lied to you four days straight running. How often did you talk to him— A. I did not say I talked to him that day concerning that case.

Q. You said he lied during those four days?

(The Witness): I made the statement that he had made two statements and at last told us he was making the right statement.

Q. That was four days before he would make the right statement? A. I don't know that I said anything to him in between.

Q. During the first four days how many hours did you talk to him? A. Not one other than the occasion at the State's Attorney's office.

Q. Who gave the strict orders that no one should talk to him? A. Mr. Leach did not want anybody to talk to him, and did not want anybody to see him unless I was there and got in touch with him.

Q. Why didn't he want anybody to talk to him? A. So that no one would tamper with him as a State witness.

Q. Did you think he was susceptible of being fixed? A. I thought possibly he might be tried to be fixed.

Q. Did you think you were going to win in fixing him or not? A. I thought possibly he might be tried to be fixed.

Q. When has the State's Attorney last talked to this boy? A. Do you want that on information—

Q. To the best of your knowledge? A. The State's Attorney—I have not seen the State's Attorney to talk to him for some

time. As far as information received from my men I will tell you. Do you want that, your Honor, please?

I understood Mr. Leach talked to him last night.

Q. Didn't he talk to him Saturday? A. He might have, I don't know.

Q. On this occasion I think it was when you were at Mr. Leach's office on Monday, the 28th, was Keller being sweated or talked to by the police or State's Attorney? A. Both, the State's Attorney talked to him and I talked to him.

Q. How many people were around him? A. The only people in the room was a stenographer, Mr. Leach, Mr. O'Connor and myself.

Q. How long were you talking to him? A. Mr. Leach talked to him for quite awhile and occasionally something that I thought he had forgotten, I would remind him and I would talk to him.

Q. What do you call by "quite awhile"? A. We consumed about five hours altogether. I do not say we talked all that time. We stopped and ate lunch.

Q. Did the boy have any member of his family with him? A. No, sir.

Q. Did he have counsel with him? A. No, sir.

Q. Did he have anybody at all to advise him? A. No, sir.

Q. What promises were made to him or threats made against him? A. There was an understanding what they had to say to him, there was no promise to it—anything you might say might be used against him.

Q. What was the understanding, analyze that, tell us in detail what that was? A. The understanding was with reference to that fact—we are going to ask you some questions and tell you before you answer that anything you might say might be used against you, and there is no promise made now because of what you might say here, wording to that effect.

Q. Captain, let me ask you as an old experienced detective; you didn't believe this fantastic yarn that this poor little kid told you about Boston and things of that kind? A. No more than he sprung it—it looked to me like a frame-up.

Q. You didn't believe him, did you? A. What do you mean, what part?

Q. I mean you didn't believe him for the first four days that he was talking to you of someone else? A. The first four days I believed he was in on it because he could not dream where he got the box and the tags, but when he sprung on me this is the time to frame up Socolow, Woggles and Carey, I thought he was wrong.

Q. (By Mr. Dennis): How many times were you present at the State's Attorney office, Captain, when Keller was being questioned? A. Only the one time.

Q. Then you told us how long you were at that job that time; did you? A. I would think about four or five hours. We were there from about half-past eleven to in the neighborhood of half-past four.

Q. Were you away getting lunch during that time? A. We had lunch during that time.

Q. Was Keller with you when you got lunch? A. Lunch was brought to us. We never left that room.

Q. Lunch was brought in to you, and you served Keller at the same time the others were served? A. Yes.

Thereupon JOHN KELLER, a witness of lawful age, produced on behalf of the State, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

(Mr. Leach): John, look at these gentlemen, and keep your face towards them so they can hear what you say. Listen to what other people may say, but look toward the Judges.

(Mr. Dennis): Your Honor, is there any reason why Mr. Leach should stand immediately over the witness when he is testifying?

(Mr. Leach): I am not immediately over him.

(Mr. Robinson): You are between me and the Judges.

(Mr. Poe): Stand in front of me, Mr. Leach. I do not mind.

Q. (By Mr. Leach): What is your name? A. John Keller.

Q. How old are you, John? A. Seventeen.

Q. Where do your mother and father live? A. 2036 Gough Street.

Q. Do you know Walter Socolow? A. Yes.

Q. About how long did you know him? A. About a year and a half.

Q. Do you know Jimmie Hart? A. Yes.

Q. Do you know Frank Allers? A. Yes.

Q. You knew Wiggles Smith, did you? A. Yes.

Q. You knew Country Carey? A. Yes.

Q. Did you ever live at 909 Broadway? A. Yes.

Q. In whose room did you sleep? A. Edna Dorsch's apartment.

Q. Who lived in that apartment, Edna and who else?

(Mr. Grason): We object to that as irrelevant.

(Objection overruled; exception noted.)

A. Wiggles Smith.

Q. Who else slept there when you did? I do not refer to any particular night; I mean just generally. A. Edna Dorcah and Wiggles Smith.

Q. Who else? A. And myself.

Q. Where did Socolow sleep during that time? A. When Socolow slept there I did not sleep there. He slept there about a week or so.

Q. Socolow did sleep there sometimes; is that right? A. Yes.

Q. After Mr. William B. Norris was murdered on the 18th of August—you heard about that, didn't you? A. Yes.

Q. Did you see Jim Hart and Socolow after that? A. Friday night.

Q. Did you see him Saturday night? A. Yes.

Q. Where did you see him Saturday night? A. Collington Avenue and Jefferson Street.

Q. Where did you go with them that night, if any place?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. To see Kitty.

Q. After you saw Kitty—that is Jimmy Hart's wife, isn't it? A. Yes.

Q. After you saw Kitty, where did Hart and Socolow and yourself go, if you did go anywhere?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-fourth Bill of Exceptions, which is accordingly this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. 88 garage.

Q. That is off Highland Avenue? A. Yes.

Q. Is that where Jim Hart used to keep his car?

Q. Who went with you?

(Mr. Grason): But I must get in my objection in order to gain my exception.

(The Court): I am going to give you exceptions to all of this for a while.

A. Hart and Socolow.

Q. Hart and Socolow went down there with you? A. Yes.

Q. Did you open that garage? A. Yes.

Q. Who asked you to open it, if anybody asked you? A. Hart gave me a key.

Q. After you got it open, what did Hart and Socolow do; just briefly tell us? A. I know Hart went into the garage. I don't remember whether Socolow went in or not.

Q. What was taken out of the garage, if anything? A. Box, tags.

Q. Cash box and tags? A. And a bag of money.

Q. Where did you go and who went with you? A. Three of us went together.

Q. Socolow, Hart and you? A. Yes.

Q. Where to? A. To the pond.

Q. Where was the pond?

(Mr. Parke): We object to all the questions as being very leading.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Highland Avenue.

Q. Very far from the garage? A. About three or four blocks.

Q. What was done after you got to the pond? A. Knocked the box and tags in the pond.

Q. Where were Hart and Socolow then; who knocked them in the pond? Let me put it that way? A. Hart knocked them in.

(Mr. Dennis): He didn't say anybody yet.

(Mr. Leach): Go ahead, John; don't pay any particular attention to these folks here (indicating counsel for the accused), go ahead unless the Court stops you.

(The Court): I am giving you an objection and an exception to every question and answer.

(Mr. Robinson): But, your Honor, can they violate the rule as to leading their witness in a case like this?

(The Court): That is within our discretion. We do not think it is leading. If it is, it is within our discretion to allow it.

(Mr. Dennis): How are we going to call it to the attention of the Court if we are not to object?

(The Court): I am giving you an exception to everything he asks.

(Mr. Parke): On the ground also that it is leading?

(The Court): Yes.

Q. (By Mr. Leach): Who knocked the box and tags in the pond? A. Hart knocked the box and Socolow knocked the tags.

Q. Did you go with them from that place Saturday night? A. Yes.

Q. Where did they sleep Saturday night, if you know, and how do you know it? A. I think Hart mentioned about upstairs from a funeral store.

Q. Upstairs from where? A. A funeral store.

Q. On Broadway? A. Yes.

Q. Where did you sleep Saturday night?

(The Witness): In a Turkish bath.

Q. Did you meet them on Sunday, Hart and Socolow, on Sunday? A. Yes.

Q. Where did you meet them, John? A. Met them at four o'clock at Broadway and Preston Street.

Q. What happened then? A. Socolow told me to go up to Carlin's Park.

Q. Did you go out there? A. Yes.

Q. Did you come back and meet them any more that day or night? A. At seven o'clock.

Q. Where? A. Same place.

Q. Were they both there? A. Yes.

Q. Where did you go then, just briefly? I do not want to go into any great detail. If anybody else wants it they can get it? A. Walked around some.

Q. Where did you sleep that night, if you know?

Q. (By Mr. Leach): Where did they sleep Saturday night, do you know? A. Upstairs from the funeral store.

Q. Not Saturday night, Sunday night? A. Sunday night?

Q. Sunday night? A. I don't know where they slept Sunday night because I come back Monday and met them at Navatney's.

Q. On what street is that? A. Chapel Street.

Q. Who got them that place, if you know? A. I couldn't tell you who got that because Novak went through an alley and

come back and took both of them up. I do not know who got the place.

Q. What Novak is that? A. Fats.

Q. Did you see Hart and Socolow on Monday—you just intimated you did? A. Yes.

Q. Where? A. In that house of Novatney's.

Q. Where was that? A. 1027 North Chapel Street.

Q. What time Monday did you go to the house, about? A. About half past eleven or quarter of twelve.

Q. What did you do, John? Did they send you out for anything? A. I got a couple of papers.

Q. You got a couple of papers? A. Yes.

Q. How about something to eat? A. Got some ham and eggs.

Q. Did you stay there the balance of the day, Monday, with them? A. Yes.

Q. Who else was in the house, anybody but you and those two, Hart and Socolow? A. The three of us.

Q. Now, Monday night, did you stay in the house all night, or did you go out? A. Walked around a while.

Q. Walked around a while? A. Yes.

Q. Do you know where they slept Monday night? A. The three of us slept at Novatney's house.

Q. In the same house? A. Yes.

Q. The next day is Tuesday, did you stay there all day Tuesday?

(Mr. Robinson): Don't you think that is leading?

(Mr. Leach): Go ahead, John.

A. Stood there until about—

Q. The next day is Tuesday, did you stay there all day Tuesday? A. Until about 2 o'clock.

Q. What happened about 2 o'clock, John? A. Novatney's wife came in.

Q. What happened to Hart and Socolow and you? A. The three of us went out.

Q. Which way, front or back? A. Back.

Q. Where did you go then, John? A. Out to Orangeville.

Q. Is that anywheres near that graveyard that has been talked about? A. On the opposite side.

Q. And what did you do after you got out there? A. Sat around and watched a couple of kids play ball.

Q. You watched a ball game? A. Yes.

Q. Then Tuesday night what happened, if you know, did you stay with the men all night or did you separate? A. I stayed with them until about 12 o'clock.

Q. Do you know where they slept that night? A. I don't know where they slept, but the next morning I heard Hart say he had to sleep in Novak's truck.

Q. He had to sleep in Novak's truck? A. Yes.

Q. You saw Jimmie Hart and Walter Socolow the next day, Wednesday; is that right? A. Yes.

Q. Where did you see them? A. I was supposed to meet them out at the ball grounds, but they were over in the graveyard.

Q. So that according to arrangement when you left them Tuesday night you were instructed to meet them at the ball ground? A. Hart told me to meet them out at the ball ground.

Q. And I understand you to say on Wednesday when you went to the ball ground according to instructions you didn't find them but they were over in the graveyard, how did you find them? A. Hart whistled.

Q. You looked about and finally found him, where was he? A. Over in the graveyard.

Q. Near that vault that has been talked about? A. Naw.

Q. Now, about what time of the day, Wednesday, was that? A. About 12 o'clock.

Q. Now, tell these judges what happened. Did Jim Hart stay there all the balance of that afternoon or what happened? A. He left.

Q. He left? A. Yes.

Q. Where was he going, did he say? A. He said he was going to Washington.

Q. What did he say to Walter about going to Washington, Walter Socolow? A. Just told us to meet him at H and Eighth Streets, Washington.

Q. Told you to meet him at H and 8th Streets, Washington? A. Yes.

Q. Do you mean both of you? A. Yes.

(Mr. Leach): Then where did you go and where did Walter go—did you go away immediately or did you stay out in the graveyard awhile? A. Stayed out in the graveyard.

Q. During that afternoon did you come across or get possession of an afternoon newspaper? A. Walked in town and got a haircut, bought two watches and bought two papers.

Q. Got a haircut, both of you? A. Yes.

Q. And got two watches and two papers? A. Yes.

Q. Do you remember what paper it was you got? A. The Evening Sun.

Q. Did you read your Evening Sun after you got it? A. Yes.

Q. Did Walter read his? A. I know he looked at it, I don't know if he read it all through.

Q. What was in that paper, John? A. Allers' confession.

Q. Allers' confession? A. Yes.

Q. Did you stay out in the graveyard that night? A. Stayed out there until about six o'clock.

Q. About six o'clock, what did you do and how did you come to do it? A. Socolow wanted to get some advice.

Q. From whom? A. From Mr. Wolf.

Q. How do you know that, did he tell you? A. Yes.

Q. What was done then? A. Walked through the city and got a cab.

Q. Keep your voice up a little? A. Walked through the city and got a cab.

Q. What part of the city did you get the cab? A. 22nd and Charles Street.

Q. What kind of cab was it, yellow? A. Stewart.

Q. When you got the cab where did you go? A. To Mr. Wolf's house.

Q. Who, you and Walter? A. Yes.

Q. In the cab? A. Yes.

Q. Anybody else? A. A fellow driving the cab.

Q. Anybody else except the driver? A. No.

Q. About what time did you get out to Mr. Wolf's house, John? A. It was just getting dark.

Q. Now, that house, can you tell the Court where the house is, if you know? A. It is on the same side that the Pimlico racetrack is on.

Q. On the same side that the Pimlico racetrack is on? A. Yes.

Q. But out Park Heights Avenue road, is that right? A. Yes.

Q. A big house or a little one, Johnny? A. A big house.

(Mr. Dennis): Every question is leading, for instance the location of Mr. Wolf's house, he said that is on the same side as the racetrack, and said out Park Heights Avenue. All a witness has to do under this kind of testimony is to say yes or no to Mr. Leach.

(The Court): I do not think that criticism is correct—

(Mr. Dennis): It is always a source of great pain to have any difference of opinion or have the chief justice to have any difference of opinion with him, but from our standpoint it does look—

(The Court): Read two or three questions.

(Mr. Dennis): I do not want to renew the objection constantly.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. (By Mr. Leach): And when you got out there what did you do, you and Walter? A. Got out and went in the house.

Q. Did you go in the house? A. Yes.

Q. Did you see Mr. Wolf?

(Mr. Dennis): There he is over again.

Q. What happened? A. A lady came at the door.

Q. Go ahead? A. Socolow said he wanted to see Mr. Wolf.

Q. What happened then?

(The Court): I think if he wishes to ask leading questions we have no objection to that. He weakens the case to that extent.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Socolow said he wanted to see Mr. Wolf, told the maid or lady? A. Yes.

Q. Did Mr. Wolf appear or did you see him? A. After the lady went in and told him.

- Q. Did Mr. Wolf come? A. Yes.
- Q. Were you then outside of the house or inside? A. Inside.
- Q. Mr. Wolf came out I understand you to say? A. Yes.
- Q. What was said, John?
- Q. What did Mr. Wolf at that time say? A. He said, "My God, boy, what are you doing here?"
- Q. Yes. What did Socolow say? A. Socolow did not say anything.
- Q. What was done with you then; what did you do; what part of the house did you go to? A. Mr. Wolf said, "Who is this kid; is this Hart?" And Socolow said, "No; it is a kid by the name of Kelly, wanted for an automobile case."
- Q. Yes. And then what happened? A. He asked Socolow if he wanted something to eat, and me and Socolow went in and ate. Before we ate he told us to wash our hands, and we did that and we ate, and he went out into the yard.
- Q. After you got through eating did you stay in the dining room, or where did you go? A. Went out on the porch.
- Q. Which porch was that; the front porch towards the country or towards the city—
- (The Court): Ask him which porch it was.
- (The Witness): It was on the opposite side we came in.
- Q. Would that be the south side? A. The one leading towards the city.
- Q. What happened then, John?
- (Mr. Leach): Will you gentlemen talk in a lower tone of voice? I do not want that boy to hear you.
- (Mr. Dennis): Mr. Robinson said what did the boy say in his answer, and Mr. Wolf told him. That is all that was

said. We do not want to disturb you or irritate you or hurt you in any way, shape or form, and we will keep just as quiet as it is possible to keep; but we object to being scolded by the State's Attorney.

Q. (By Mr. Leach): Where were you, John? A. On the porch.

Q. What did you and Socolow do when you got out on the porch; sit down? A. Yes, sir.

Q. Did Mr. Wolf come out to the porch while you were there that night? A. Yes.

Q. In your own way, tell the Court what was said when Mr. Wolf first came out on the porch? A. Said, "A brutal thing you did, Socolow."

A. (continued) Socolow said some man came down the street and the man kicked him.

Q. (By Mr. Leach): Kicked him where? A. Right here (indicating pit of the stomach).

Q. And then what? A. The man ran back up the street and he shot him.

Q. Yes; and what else? A. And he went over, and the man kicked him, and he kicked the man and took the money.

Q. He went over, and the man kicked him and he kicked the man, and he took the money? A. Yes, sir.

Q. Now, who did he tell that to; who did Socolow tell that to? A. Mr. Wolf.

Q. Then what happened?

(Mr. Dennis): If Mr. Leach will get further off from the witness, the witness will endeavor to make Mr. Leach hear, and then we can all hear.

(Mr. Grason): If I can't hear his testimony, I do not think that is fair to my client.

(The Court): We will read it all to you, Mr. Grason.

Q. What did Mr. Wolf say then, John, if anything? A. Socolow told him he needed the money, so Wolf said, "Why didn't you come to me; I would have lent you a couple hundred dollars."

Q. And then what happened? A. Then the detective came.

Q. How did you know the detective came, if one did come?
A. A lady came in and told him.

Q. What happened then, John? A. He went out to the detective.

Q. Who went out? A. Mr. Wolf.

Q. Then when Mr. Wolf came back from the detective, as you say—or let me ask you this: Did you and Walter continue on that south porch? A. Stayed right there.

Q. All the time? A. Yes, sir.

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

Q. You stayed together all the time; is that right? A. Yes, sir.

Q. Now, when Mr. Wolf came back what occurred; what did Walter say to him or Mr. Wolf say to Walter? A. Asked him how would this sound; how would this do?

Q. Walter did? A. Yes, sir.

Q. What was it he said there? A. I said I heard Allers say he was framing Socolow.

Q. When you say "I," you mean yourself?

(The Court): Let him go along. It will be better for you and better for himself and better for all of us.

(The Witness): I just said to Socolow what would be all right for me to say.

(The Court): What he said and what Mr. Wolf said; go ahead.

(The Witness): Then he told me to say instead of Hart and Socolow taking me to the box, Frank Allers took me there.

(The Witness): Then the telephone bell rang.

Q. (By Mr. Leach): Was anything said about the name of Allers? A. Chicago.

(Objection.)

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

FIFTY-NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. (By Mr. Leach): Then the telephone rang? A. Yes, sir.

Q. What happened then? Did Mr. Wolf sit there or go out? A. Went to the telephone.

Q. Went to the telephone? A. Yes, sir.

Q. Was he gone to the telephone very long? A. Couple seconds.

Q. And when he came back what happened? A. He said, "I didn't get you; tell me it again." And so I told him again.

Q. He said, "I didn't get you; tell me it again," so you told him again; is that right? A. Yes, sir.

(The Court): Now, what did you tell him?

(Mr. Leach): The Judge wants to know what you did tell him the second time.

(The Witness): Told him the same thing I told him the first time.

Q. (By Mr. Leach): What did you tell him the first time?
A. About Allers taking me to the box instead of Hart and Socolow, and that I heard Allers say he was framing Socolow.

Q. Now, what was said, if anything, by anybody, about having nerve or not having nerve?

(Mr. Robinson): He hasn't testified about anything like that.

(The Court): Overruled, gentlemen. It is a perfectly leading question, but he has a right to ask a leading question when he can't get it out on general questions. You gentlemen know that, too.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Fifty-ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness): He said, "If you have got the nerve it is all right." And Walter said, "I know a kid can talk pretty good by the name of 'Shovels,' but he don't know anything about it."

Q. Who used the words, "If he has got the nerve, it's all right," Wolf or who? A. Mr. Wolf.

Q. And where were you when that was said? A. On the porch.

Q. Then what happened; as near as you can remember it now? A. A couple fellows came.

Q. And did they stay long, or maybe you don't know. I don't. A. Couple minutes.

Q. Yes. When you left there that night, what was said, what was the understanding, if any? A. Mr. Wolf said he at his office at quarter of nine; he would have a friend there of his.

Q. Did he tell you what he was going to do with his friend, or what the friend would do with you? A. Just what Socolow told me. He wouldn't ask me many questions.

Q. What did Wolf say, if anything? A. Then he said he at his office quarter of nine.

Q. Now, while I think of it, did you go out to Mr. Wolf's house that night to see him as a lawyer about any automobile case? A. No, sir.

Q. You went along for what reason? A. Because Walter wanted to see him.

Q. Because Walter wanted to see him? A. Walter asked him, I think, to be his attorney, or something.

Q. Walter asked him, you think, to be his attorney? A. Wolf said he wouldn't have nothing to do with the case.

Q. (By Mr. Leach): Now, was that before he told you to come to his office in the morning or not? A. That was before. That was when we were at his house.

Q. That was when you were at his house? A. Yes, sir.

Q. But I mean as to the time when you were at his house, when you first got there, he told him he wouldn't have anything to do with the case? A. I think it was.

Q. Now did Walter say anything about where he was going, or what he was going to do, so Mr. Wolf could hear it? A. Supposed to meet Hart in Washington.

Q. Did Walter make any statement about where he was going, I mean in the presence of Mr. Wolf? A. He said he was supposed to go to Washington to meet Hart on H and 8th Streets.

Q. Did you come to Mr. Wolf's office the next day? A. Before we left him—

Q. Yes, go on and tell it? A. As we were going out, Mr. Wolf told Socolow to give himself up because if he tries to go out of town it will go that much harder for him.

Q. Before you left Wolf told Socolow he had better give himself up? A. Yes.

Q. Because if he went out of town it would be that much harder for him? A. Yes.

Q. If there is any more of anything that happened out there that you can think of, tell it now. If you do not think of anything else I want to ask you if you went to Mr. Wolf's office the next morning? A. Yes.

Q. That would be Thursday morning, wouldn't it? A. Yes.

Q. That was Wednesday night that you went out there? A. Yes.

Q. Where did you sleep that night, John? A. Kaplan's Hotel.

Q. About what time did you get up to Wolf's office in the morning? A. About a quarter of nine.

Q. Did you see Mr. Wolf at that time? A. No, sir. I saw him about five minutes later.

Q. Did you see any one else there whose name you now know; did Mr. Wolf introduce you to anybody? A. I seen him standing there looking at me (pointing to Capt. Leverton).

Q. Capt. Leverton, is that the gentleman? A. Yes.

Q. You saw him standing in there? A. Yes.

Q. Did Mr. Wolf introduce you to Capt. Leverton or turn you over to him? A. Wolf came in and he said, "Come on, kid," and he said to Capt. Leverton, "This kid will show you something," and then he called over after somebody in his office and asked him if he had his car, so he said yes, and he asked Mr. Leverton if he had anybody with him, and he said the police, and he said go out and dismiss him.

Q. Was anything said by Mr. Wolf to Capt. Leverton in your presence as to what he should do? A. He told Capt. Leverton when we left, he said, "Don't go asking the kid any questions."

Q. You and Leverton got down to Highland Avenue at this pond, didn't you? A. Yes.

Q. And you went in the pond? A. Yes.

Q. And didn't find anything? A. No, sir.

Q. What did you do then? Go back? A. Came back.

Q. Where? A. To Mr. Wolf's office.

Q. Did you go back to the pond again that day? A. Yes.

Q. With whom? A. With him and—

Q. Inspector Lurz, is that what you mean? A. Yes.

Q. Inspector Lurz and Capt. Leverton? A. Yes.

Q. Were these boxes and tags found that second time? A. Yes.

Q. Are they the ones (exhibiting)? A. Yes.

(Mr. Leach): We would like to introduce these things in evidence, this box and these tags.

(Articles offered in evidence marked Exhibits Box and Tags.)

Q. Where were they found, John, in the pond or where? A. In the pond.

Q. Where you had seen them thrown by these men? A. Yes.

Q. When you got back up town after this second trip did you go straight to Mr. Wolf's office or where did you go? A. I went up to Norris'.

Q. Norris' contracting place on Madison Avenue? A. Yes.

Q. Then from there what happened next? A. Went over to see if the man could identify the box, the man who made it.

Q. Over on Howard Street, wasn't it? A. Yes.

Q. Then where did you go? A. Down to Mr. Wolf's office.

Q. Who went with you to Wolf's office, anybody? A. Captain Leverton.

Q. Did he stay there? A. He stood there as long as I stood there.

Q. About what time was it that you got back the second time to Wolf's office? A. About four o'clock.

Q. Do you think it was four? A. About three it was.

Q. Let me get at it in this way; at the end of this second trip to the pond at Highland Avenue, about how long did you stay in Mr. Wolf's office after you were returned, do you know what I mean? Was it a long time or a short time? A. When we went back he was in there and he asked me if I ate and I told him no.

Q. Who asked you? A. Mr. Wolf.

Q. Then what happened? A. He gave me some money to go up and eat and told me to come back, and when I came back he was gone, gone up to the Central Police Station.

Q. Mr. Wolf gave you some money to get something to eat and when you got back Mr. Wolf had gone to some station house? A. Yes.

Q. How long were you there altogether at that time, that is what was the period at Mr. Wolf's office after you had come from the pond and from Hicks and Norris' office? Was it an hour or two hours or what? A. About an hour and a half.

Q. Which way did you go and who went with you when you left Wolf's office that afternoon and came over to the Court House, Captain Leverton? A. Yes.

Q. Did he take you out? A. Yes.

Q. What conversation or what statements if any were made by you to Mr. Wolf at that time and what was said by Mr. Wolf to you just as you were going out with Leverton to go over to the Court House? A. He asked me if I had any money and I told him no. He said, here is a dollar to get a place to sleep. What are you going to say, Allers found the tags? Either one, he said, or are you going to say Allers framed Socolow? I don't know which he said.

Q. What did you say, John? A. I told him yes.

Q. What if anything was said about whether or not you might be held by the police? A. I told him, suppose they hold me? And he said to call my house, call me up at my house and I will come down and get you out.

Q. From there you went with Leverton over to the Court House, didn't you? A. Yes.

Q. Went to Captain Burns' office? A. Yes.

Q. In Captain Burns' office did they bring in any men? A. Fats Novak and some small fellow.

Q. You knew Fats, didn't you? A. Yes.

Q. Did you admit knowing him at that time? A. No, sir.

Q. You told them you didn't know him? A. Yes.

Q. Did they show you the photograph? A. Yes.

Q. Who were the photographs of? Smith, Carey, Socolow, Hart, Hart's wife and Allers.

Q. What did you say about the photographs? A. I told them I did not know none of them but Allers.

Q. Then from there they took you over to—by the way, why did you say that at that time, did you have any particular reason? A. Which?

Q. Why did you deny knowing any of them except Allers, the photographs I mean, what was your purpose? A. I said that Allers was framing these fellows.

Q. From there they took you to the Central Police Station, didn't they? A. Yes.

Q. Whom did you see over there if you remember? A. They took me up in the matron's room and started to question me.

Q. Who did? A. O'Connor and Hurley.

Q. Mr. O'Connor and Inspector Hurley? A. Yes.

Q. What did you say then? A. He asked me if I heard them say anything and I said no. When Mr. Hurley brought Mr. O'Connor in I heard of Allers making his confession to the State's Attorney, and he said, this is the State's Attorney. So I told him—he said, did you hear him say anything? And I said yes, when we were going under a bridge I heard him say, this fellow by the name of Chicago, say to this fellow by the name of Boston, I know I am going to get grabbed on this for driving the car, but I will make out I am turning State's evidence so I will save Socolow, Woggles and Country that he is framing.

Q. That is what you told O'Connor and Hurley over at the station house? A. Yes.

Q. As I understand it Captain Leverton had told you before that but you had not told him any of this? A. No, sir.

Q. Why did you tell it to O'Connor and Hurley when you got to the station house? A. I did not know who was the head man so I figured Allers confessed to the State's Attorney so I just took it that it was the State's Attorney.

Q. You thought that was the head man? A. Yes.

Q. Were you hunting for a head man? A. I was looking for the same man that Allers had confessed to.

Q. You were looking for the same man that Allers had confessed to, is that right, John? A. Yes.

(The Court): See if you cannot avoid leading him. Your questions are very leading.

Q. What happened then, John? A. They kept on questioning me and Mr. Hurley would write it down and Mr. O'Connor got done questioning me and Mr. Hurley would question me and then they kept on taking turns and they took me into Allers and I said, that is the fellow Chicago.

Q. You said so? A. Yes. First I walked in and they said to Allers, Do you know this kid? And Allers shook his head no, and I said, that is the man Chicago. I was going to say he was the one who was framing Socolow, Woggles and Country and before I could say that they shut me down and took me out of the room, and then they took me in again and the inspector came out and he said, You belong up at 909 N. Broadway, your right name is Keller? And I said who told you that? And he said, he knows your name. And I said certainly he knows my name, going up Broadway I told him my name, and then he kept on questioning me and took me back up to headquarters, they took me in Burns' office. A couple of detectives came in and all of them questioned me and then I made one stumble.

Q. You made one stumble?

(The Court): Let him go along and talk, Mr. Leach.

(The Witness): Instead of my saying Woggles I said Wiggles, and I said what is the matter, are you trying to frame me? I came up to give you information and you are trying to frame me, and they said, we don't want none of that stuff, so then they go out and I think Mercy is his name, he said, let Burns have him, he might tell Burns something. So they all went out and Burns starts questioning me and he put his face over like to bite my nose off or something so I went like that to him (gesturing) and he got that much madder, and he said, come on and take this kid over to the Central, we will give him time.

So before they took me over to the Central they come up and said, "Well, we know you were over in Mr. Wolf's office." And then I said, "I met the man outside." They wanted to know how I met Captain Leverton. I said, "I met him outside of the Court House," and then they got me so that I met him over Mr. Wolf's office, had me to say I was in there.

Q. Who did? A. That man there.

(Mr. Leach): Stand up, Mr. Tompkins.

(The Witness): That is the man that questioned me in Mr. Wolf's office. I said, "I will tell you the truth, I met Mr. Wolf over by the Court House and I told him I had an automobile case gainst me and that cops was looking for me, and I told him I knew where the box and tag was from the murder, and he said, 'Come over in my office and wait for me.'" I told him I went over to the office and seen him there (indicating Captain Leverton). So then he said, he sent him with me to get the box and tags. Then he said, "Take him over to the Central, lock him up."

Q. This is the story you told in Burns' office? A. Yes, sir; that is when they came in and said I was over Mr. Wolf's office.

Q. Yes? A. And then they said, another one comes in and says, "Do you know Benny Lewis?" I said, "No, sir." They said, "You don't know him?" I said, "No, sir; I don't." They said, "Never heard of him?" I said, "Never heard of him." They said, "Take him up to 909 Broadway and see if you can get him identified." They take me to 909 Broadway, two detective walks in the house first and talks to this here Virgie, and then I took all the best of it. I said they framed me when she identified me, because I walked in and she said—

(The Witness): The detective asked her if she knowed me. She said, "Yes, his name is Kelly, and his right name is Keller." I called her a bum and all that stuff. I said, "I never seen you in my life." She said, "I slept with Country Carey that night and Socolow slept on the chair," and, she said, "If you don't believe me, get Mr."—the man that owns the house upstairs.

Q. Hess? A. Hess. She said, "He took laundry to the laundry," and I figured they were going to get the laundry to identify me, and the people next door, because I went there and they seen me go in and out, and they were going to get them; and after we got out in the car I kept on hollering at her, and a big crowd was around the car, and they said, "Why don't you tell the truth?" I said, "I told the truth. What do you think I am coming up here to tell you something wrong?"—"No wonder, this girl wanted to get me framed."

Q. (By Mr. Leach): Then what happened? A. And a bunch of detectives come up and said, "Take him back; we know who he is."

Q. They said they knew you? A. They said, "That is Benny Lewis' cousin."

Q. Where were you taken then? A. Back to Headquarters. So I said, "I will tell you the truth, that Socolow and Hart took me to the garage and hide the box and they slept out in the cemetery."

Q. Yes? A. And then they took me up in his room.

Q. Whose room? A. Your room.

Q. The State's Attorney's office? A. Yes. And then they started to question me about Mr. Wolf, and I told them I met Mr. Wolf on the pavement and went in the house and said he sent me over his office. That I met him on the pavement and he sent me to his office. They said, "Did you go to his house?" I said, "No." They said, "Do you know a boy by the name of Milton Goldberg and Shovel?" I said, "No, sir." They said, "Didn't Socolow telephone the night before to tell you to be at Mr. Wolf's office?" I said, "Yes." They said, "Tell us about Hart and Socolow." So I told them they took me to the box and they walked up Patterson Park Avenue and each

of them gave me ten dollars, and they went out in the cemetery and slept out in the cemetery.

Q. This is what you told in the State's Attorney's office that night? A. Yes; and they hooked me up in a lie, and they said, "We want the truth." I said, "I will tell you the truth," and I kept on telling it, telling it all over.

Q. What else, John? A. So, then they sent me over to the station house—no; they took me—

Q. You went to the graveyard? A. They took me down-stairs, and I said, "I will tell you where Socolow is," and I told them to go out to the graveyard, so none of them would get him on his way to Washington.

Q. You wanted to help him? A. Yes; so that the cops wouldn't get him. So I said, "Come on with me; I will show you where he is."

Q. Where did you go? A. About fifty detectives—it looked that many to me—went out to the graveyard. I said, "There they are; down that hole"—six people was buried there. Roche had me by this arm and a couple of them there had me by this arm, and every time they would go to stick the gun by the hole I said, "Don't take me by that hole; they might shoot." All of them was scared to go down there. So they stuck a search-light down there, and then they seen nobody was there, and they all marched there, and I said, "They aint' there; they are right over here." And I kept them out there as long as I could. I said, "This is where they were sleeping." And the papers was there where we were laying that afternoon, and I showed them some grub where we were eating. Anyhow, I showed them around, and it took us till three o'clock in the morning before we left there. They took me back. I said, "I will tell you where they are at. Come with me." I took them to the Turkish bath. They walked in the Turkish bath, and the man said, "Yes; I seen him come in here. He had a suitcase, with three other men with guns." I never slept there that night at all.

Q. That is what night; Thursday night or early Friday morning? A. Friday morning.

Q. Where did they finally take you to, back to the station house? A. Took me to this place where I told them they were sleeping, and they went up to the man that owned the Turkish bath, and they said, "Nobody was not sleeping there." So they took me up and asked if they had even seen me there, and they said, "Yes," he seen me come there with three other men with guns.

Q. You did that in order to help Walter get away; did you?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixtieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Yes.

(Mr. Leach): Isn't that a fact?

(Objected to.)

Q. You knew they were not at the Turkish bath when you went there?

(Objected to.)

A. Yes.

(Mr. Leach): He already said he took them out to the cemetery for that purpose.

(The Court): That is manifest.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-first Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. Leach): Did you think the men were out at the Turkish bath? A. I knew they were not there.

Q. Did you think they were out at the graveyard when you went there? A. No, sir. I knew they were not there.

(Mr. Leach): I suppose, even most anybody can draw the conclusion now.

Q. Now, the next day is Friday? A. Yes.

Q. You really got through early Friday morning; you say it was three o'clock or so. Now, on Saturday, where did you stay Friday and Saturday? Where were you; were you in custody? A. Up in the Central Police Station.

Q. Do you know whether Mr. Wolf tried to get to see you on Saturday; that would be the Saturday following the Thursday when you came uptown and met Leverton and found the box and tags? A. I was up in the cell window and whistled out the window, and Mr. Wolf stopped me. And a man come up the yard, and he said, "I will be working on your case Monday." Monday came and nobody didn't get me out, and then the news broke out about Mr. Wolf saying that he called

Captain Leverton up at night and saying I was at his house, and then the taxicab man came and identified the shirt, as I wore it, to Mr. Wolf's house.

Q. All right now, John, what else happened? Now, on Monday were you brought over in the court house? A. Yes.

Q. Where were you taken in the court house? A. Taken to your room.

Q. The State's Attorney's office? A. Yes.

Q. And who else was there? A. You and Mr. O'Connor.

Q. Mr. O'Connor? A. Yes; and Hurley.

Q. And Hurley? A. Yes.

Q. We stayed there a right smart while, did we, and there was a stenographer—I do not know just who it was myself—at any rate, there was a stenographer there; is that what you are trying to indicate just now? A. Yes.

Q. Now, John, you stayed there a right good while, didn't you? A. Stayed there about five hours.

Q. Stayed there about five hours? A. Yes.

(Judge Duffy): What day was this?

(Mr. Leach): This was Monday, August 28th, the Monday following the Thursday that he had come uptown in my office.

(Judge Duffy): I did not get the day on which he took the police officers or the detectives to the Turkish bath.

A. That was Thursday night.

(Mr. Leach): Thursday night or early Friday morning. It was technically Friday morning about three or four o'clock; is that right? A. Yes.

(Mr. Leach): Wednesday is the day they went to Mr. Wolf's house; Thursday is the day he came uptown, and Saturday is the day he says Mr. Wolf—

(The Court, Judge Bond): Now, that he has regained his composure, we would like to have him tell again what occurred at Mr. Wolf's house at your convenience.

Q. John, some of the Judges would like to have you tell again what occurred there so they can understand it. Just tell us what happened at Mr. Wolf's house.

(Judge Bond): Keep your voice up a little.

(The Witness): When I came in the house from the first beginning?

(Judge Bond): From that time until you left; everything you can remember.

A. A lady came out to the door, and me and Socolow was there, and Socolow said he wanted to see Mr. Wolf, and the lady, I think, asked him his name, something like that, so he said, "That is all right," and Mr. Wolf came out and he said, "My God, boy, what are you doing here?" And he said, "Who is this kid?"—no; he said, "This is Hart, is it?" And Socolow said, "No; his name is Kelly; wanted on an automobile theft." So, I think Mr. Wolf said, "You want something to eat?" And we went in and ate and washed our hands before we ate, and Mr. Wolf went out in the yard. And then he came back in and we finished eating, and he takes us out on the porch, and Mr. Wolf said, "A brutal thing," or "Brutal thing you did," "Socolow." And Socolow said, "I will tell you about it, Mr. Wolf." He said the man was coming down the street, and he kicked at me, and the man ran back up the street, and he shot the man and he kicked the man, and the man kicked him, and he took the money, and he said—Socolow told him he was broke and he needed the money. And Mr. Wolf said, "Why didn't you come to me; I would have lent you a couple of hundred dollars." And then the detective came, and a lady came in and said some detective was out on the porch, and so he went out—

(Judge Bond): Who went out?

(The Witness): Mr. Wolf.

(The Court): Just one?

(The Witness): Yes; and me and Socolow went on the porch, and Socolow said that is some head detective of some kind, so then Mr. Wolf—

(Judge Bond): Is that the only conversation occurred between you two and Mr. Wolf?

(The Witness): When Mr. Wolf was away—we were talking about instead of him and Socolow and Hart taking me to the box, put it on Allers, and when Mr. Wolf came in Socolow asked him how would this sound, or how would this do, and he said instead of me and Hart taking him to the box, say that Allers was taking him to the box and frame him, Socolow—I heard Allers say he was framing Socolow. And then I told Mr. Wolf. Mr. Wolf said, "You are sure you know where it is at?" And I told him yes; told him about what I would say that Frank Allers—instead of calling him Frank Allers say "Chicago," and another fellow came up on Broadway—I was standing on Broadway at Baltimore Street, and this fellow came up and said, "You want to make a couple of dollars?" And I said, "Yes." And he said, "Come with me; take me to Broadway." And gets on a car that goes east on Fayette Street and takes me down to Highland Avenue to this garage 88, and I get the box and tags and take it up to the pond and drop them in the pond, and he gives me twenty-five dollars. And then the telephone bell rang—I told this to Mr. Wolf—and the telephone bell rang, and Mr. Wolf answered it, and he came back and he said, "Let me hear that again." And I told it to him again. He said, "He has got the nerve" (pausing). And then Socolow said, "I know a kid can talk pretty good by the name of 'Shovel.'" And Mr. Wolf did not say anything, and a couple of fellows came in (pausing). And then Mr. Wolf came back in, and he said, "Come to my office at quarter of nine; I will have a friend there." So Socolow said—

(Judge Bond): "Have that friend there," or "A friend there"?

(The Witness): Have a friend there (pausing). And Socolow—I believe it was Socolow—said, Mr. Wolf will have a friend there and he won't ask you many questions. And when we were walking out Mr. Wolf said, "There is only one thing I can tell you to do is to give yourself up. If you go trying to get out of town it will go that much harder on you." And we got the cab and left Mr. Wolf's house.

Q. Coming over now, to the part that happened on Monday, John, in the State's Attorney's office. You stayed there I think you said five hours? A. Yes.

Q. I think that is about right.

Q. John, why was it necessary, or why did you stay five hours over in the State's Attorney's office? It did not take you five hours to tell the truth? A. I was lying to you.

Q. At first, the fact is that you did not tell us the truth, is that right? A. No, sir.

Q. And for a long while you did not tell us the truth? A. Yes.

(The Court): You gentlemen can start to object now, if you want to.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. How long did it take you to make your statement, John, when you did start up to tell the truth, about how long?

(Mr. Robinson): When did he tell the truth? You said you were lying all the time.

(Mr. Leach): When he detailed this story. I know it was the truth if no one else did.

Q. It was true, wasn't it, John? A. Yes.

Q. How long did it take you to tell that part? A. I don't know how long it took.

(Mr. Robinson): What part are you talking about?

(Mr. Leach): If you don't understand now you would not understand if I tried to explain it to you.

Q. You were then taken to the Central Police Station and have been kept there ever since? A. Yes, sir.

Q. (By Mr. Leach): Is there anybody named "Shovels," is there anybody who is known as "Shovels"? A. Yes, sir.

Q. What is his name? A. All I know him by is Shovels.

Q. All you know him by is Shovels? A. Yes, sir.

Q. You do know a man—what is he, a man or boy, a young fellow? A. Young Fellow.

Q. You know a young fellow who goes by the name of Shovels? A. Yes, sir.

Q. Now when you saw Capt. Leverton on Thursday morning was he in full regalia like he is now or was he in citizens' clothes? A. Plain clothes.

Q. What was the last thing Socolow said to you that night when he left? A. He said, John, don't forget to go to Mr. Wolf's office.

Q. Were you as a matter of fact going to Wolf's office about any automobile case of your own? A. No, sir.

Q. There has been some talk from time to time about stealing automobiles. As a matter of fact, you never stole an automobile, did you? A. No, sir.

Q. Traffic Court case, wasn't it?

(Mr. Robinson): We object.

Q. (By Mr. Leach): When Mr. Wolf said to Socolow that night you had better give yourself up, was there anything else that he said in addition? I mean to say at those times when he would say you better give yourself up to Socolow, is there anything you can remember that he said at that same time?

(Mr. Robinson): Now, your Honors, he has gone over his story, he has gone over the instance with the State's Attorney, he then related—

(The Court, interrupting): He has a right to recall it to him. Of course he is recalling it, and it is necessary to do that, but still he has the right to do that.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness): He said its going to go that much harder on you if you go out of town.

Q. (By Mr. Leach): Yes. You told us that. Was anything said or done out to Mr. Wolf's house by or between Socolow and Wolf that made it appear that they knew that Allers had confessed? A. I don't know what you mean by that.

Q. Did either one talk about Allers' confession? A. No.

Q. Did either one of them say that Allers had confessed?

(Mr. Robinson): He has answered that, your Honor.

Q. I am talking about the time when you were out to Wolf's house, you and Walter had read Allers' confession out in the country in the Evening Sun. Now when you got to Wolf's house did Walter say anything about Allers having confessed or squealed, or did Wolf say anything about it? Was anything said about that?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I think Socolow said Allers confessed.

Q. Yes, and what did Mr. Wolf say when he told him he had better give himself up if anything? A. He said deny his story.

Q. Yes; whose story? A. Allers.

CROSS-EXAMINATION.

Q. You must be tired. Mr. Keller, everybody else calls you Johnny, and you won't mind if I call you Johnny, will you? A. No, sir.

Q. That's nice; I think we will get along well together. Now, how old are you, Johnny? A. Seventeen.

Q. How much schooling did you have, Johnny? A. Seventh grade.

Q. And where do your father and mother live? A. 2036 Gough Street.

Q. And your father works where? A. I don't know where he works.

Q. How many brothers and sisters have you, Johnny? A. Six sisters and four brothers.

Q. Treat you all right at home? A. Yes, sir.

Q. Have no fault to find with your mother and father? A. No, sir.

Q. How long since you left home? A. Left home March 8th.

Q. And where have you been working? You haven't been at home since March 8th? A. No, sir.

Q. Now, why did you leave home, please, Johnny, tell us that? A. I just felt like leaving home.

Q. Did you leave home to work anywhere? A. No, sir.

Q. Where have you worked in the past year? A. (After hesitation): I worked on a ship for nine days.

Q. Where else did you work? A. No place.

Q. Now, then, you worked for F. H. Roberts and Company in 1917, didn't you, four or five years ago? A. Yes, sir.

Q. And you worked for the Henry Gilpin Co.? A. Yes, sir.

Q. And the John W. Kennedy Co.? A. Yes, sir.

Q. And the Tin Decorating Co.? A. Yes, sir.

Q. And the Western Union Telegraph Co. under two names, that is correct, isn't it? A. One name.

Q. F. A. Davis & Sons, you worked there, and you worked for the Tin Decorating Company again? A. Only worked there once.

Q. Well, you applied for a permit to work there twice as a minor, didn't you? And you worked for the Southern Can Co.? A. Yes, sir.

Q. And you worked for Shepherd-Fluharty and Company? A. Yes, sir.

Q. Any other place you worked? A. Baltimore Dry Docks.

Q. And what is the longest you worked in any one job? A. F. A. Davis.

Q. And how long did you work there? A. Two years.

Q. And wasn't that the shortest time you worked in any one job? A. Walked in and got the job and walked out.

Q. Now, then, Johnny, I find that you were given a permit to work for F. A. Davis Sons on March 1st, 1920, and apparently you were given a permit to work at another place on the 14th of August of that same year, and yet you tell us that you worked for Davis two years? A. About two years.

Q. That would only be about six months? A. I worked there a long time before I got a permit.

Q. Notwithstanding the law? Now, Johnny, when were you locked up by the police? A. In this case?

A. 24th of August?

Q. And this is the 30th of October and you have been locked up ever since? A. Yes, sir.

Q. Now, have you been at the Central Police Station all that time? A. Yes, sir.

Q. Police feeding you and looking after you, taking you out for exercise? A. Taking me out for exercise? I was in a cell for sixty days without getting out for any exercise.

Q. Now, then, did you see the policemen all the time day and night? A. None of them wouldn't talk to me.

Q. How many times have you talked with Mr. Edgar A. Poe, the gentleman who sits there with the glasses? A. Once.

Q. When was that? A. Friday.

Q. And how long were you talking with him then? A. About two hours.

Q. And what did he say to you and what did you say to him? A. Wanted to know about the case.

Q. And what did you tell him about the case? A. I told him about it.

Q. And what did he tell you to say? A. He didn't tell me to say nothing.

Q. Did it take you two hours to tell all about the case? A. Yes, sir.

Q. It has only taken you thirty minutes on the stand. Take you two hours to tell Mr. Poe about the case? A. Yes, sir.

Q. Now, how often have you talked to the police about the case or Mr. O'Connor? A. About four times.

Q. And the first time you were with Mr. Leach about five hours, weren't you, Captain Hurley and the others? A. Yes.

Q. What is the next time you talked to Mr. Leach about the case? A. The last time was last night.

Q. How long were you talking with him last night? A. About an hour.

Q. Did you go over what you were to say today with him? A. I told him what I was supposed to say today.

Q. What you were supposed to say; what were you supposed to say? A. About going to Mr. Wolf's house.

Q. Who supposed you were going to say that? A. I understand I was supposed to say it.

Q. I beg your pardon? A. When I got on the stand I was supposed to say it.

Q. Why do you use the word "supposed"? A. I do not understand what you mean by that.

Q. I say, why do you use the word "supposed," what you were supposed to say; didn't you know what you were going to say? A. Certainly I knew what I was going to say.

Q. You knew what you were going to say before you went on the stand? A. Yes.

Q. What was the necessity of Mr. Leach keeping on talking to you about the matter when you had already told him? A. To see if I forgot anything.

Q. You testified in the Smith and Carey trial in this room, didn't you? A. Sir?

Q. And you testified in the Socolow trial out at Towson, didn't you? A. Yes.

Q. Who have you seen since you have been locked up for the last sixty days or so outside of the State's Attorney and his assistants and Mr. Poe and the police, who has been permitted to see you in that time, your mother? A. Yes.

Q. How often have you seen your mother? A. Twice.

Q. Under what circumstances and where? A. Just came up to see me at the Central Police Station.

Q. Were you permitted to talk privately together? A. No, sir.

Q. Who stood by? A. A cop in the room.

Q. Would not let you talk to your mother? A. No, sir.

Q. Did your mother want to get you out of the Central Police Station? A. Yes.

Q. Were the police and the State's Attorney willing for you to get out? A. I don't know.

Q. Did your father come to see you? A. Yes.

Q. How often did he come to see you? A. Twice.

Q. Who stood by while he talked with you? A. The cop.

Q. Always a cop, never permitted to see anybody without a cop? A. No, sir.

Q. Have you had any other visitors except State officials outside of your mother and father in the last sixty days? A. My sister and brother came up once.

Q. Did they come together? A. No, sir.

Q. Came separately? A. Yes.

Q. Were they permitted to see you without the presence of a policeman? A. No, sir.

Q. Who was present on these various occasions when you saw your mother, saw your father and saw your brother and saw your sister, what policeman? A. Inspector Hurley came up a couple of times.

Q. Inspector Hurley came up a couple of times, who came up the other times? A. Mr. O'Connor came up a couple of times.

Q. Did you have counsel in the last sixty days? A. No, sir.

Q. At the time that Mr. Leach was talking to you for five hours in the State's Attorney's office, and on these other occasions when he first talked to you, were you represented by counsel or by any relative or friend? A. I do not understand you.

Q. You understand what I mean, don't you? A. If anybody was there while I was talking to them?

Q. Anybody who was friendly to you, your lawyer or your mother or father? A. No, sir; nobody.

Q. You have always been alone and unprotected when you were talking to them? A. Yes.

Q. Do you know why it was that you were not permitted to have any visitors or to see your mother or father or your brother or sister, without the presence of a policeman, do you know why? A. I guess the police think that somebody might come up and tell me to say something and that I would say it.

Q. You would not do it if they did tell you, would you? A. No, sir.

Q. Did you ever know Mr. Harry B. Wolf until you went out to his house with Socolow? A. That is the first time I ever seen him.

Q. Did you ever hear of him before? A. I have heard of him; yes.

Q. When Mr. Louis Lake called to see you was there a policeman present? A. He came up and went in my room and closed the door.

Q. Outside of Mr. Lake, nobody has seen you since you were put in the Central Police Station, except in the presence of policemen? A. No policemen ever came in. The onliest one that ever came up there was Mr. O'Connor—

Q. You do not understand me, Johnnie. I mean to say, outside of Mr. Lake, no one saw you—that is to say, your mother or father or brother or sister, except in the presence of a policeman? A. No.

Q. You met Socolow, or you and Socolow left the graveyard, away over there in East Baltimore, Wednesday afternoon late, didn't you, the 23rd? A. Yes.

Q. What was your object in walking away across town, some three or four miles, to the corner of 22nd and Charles Street? A. Just to waste time.

Q. What was your object and purpose in wasting time? A. Socolow said he knew the time that Mr. Wolf would be home eating.

Q. And you wanted to get there when he was eating? A. Yes.

Q. Why didn't you go to Mr. Wolf's office? A. I don't know.

Q. You do not know why you did not go to Mr. Wolf's office? A. No, sir.

Q. At that time did you know that Mr. Norris had been killed? A. Yes.

Q. Do you remember your testimony at Towson, where you said that you did not know whether he had been killed or had not been killed; do you remember that? A. Do I remember it?

Q. Yes; you testified at Towson, didn't you? A. Yes.

Q. Don't you remember saying that; that you did not know whether Mr. Norris had been killed or not? A. Yes.

Q. You said that; didn't you? A. Yes.

Q. Now, which is true—that you did know he had been killed, or did not know he had been killed? A. I knew he had been killed.

Q. And yet at Towson you swore you did not know he had been killed? A. Who? Me?

Q. Yes. A. I don't remember saying it.

Q. We will read it to you presently. You say now that when you walked across town with Mr. Socolow that night that you knew that Mr. Norris had been killed? A. Yes.

Q. Did you suspect that Socolow had had any part in it, or did you know that Socolow had had any part in it? A. The only thing I know was by reading the newspaper.

Q. On page 809 of your testimony at Towson you were asked, "When did you first find out that Hart had ridden uptown in a car and held up Mr. Norris and that Mr. Norris had been slain; when did you first find that out?" A. When did I first find it out?

"Q. Yes. A. I have not found it out yet.

"Q. Do you know anything about it? A. Only from what the papers read.

"Q. So you tell this jury that all you know about it is what the papers read? A. I said I was with Hart and Socolow, and you said if I knew anything about it when they went up to the holdup, and I said from reading out of the papers.

"Q. Did Hart ever tell you that he was in this gang that killed Mr. Norris? A. No, sir.

"Q. He never did? A. No, sir.

"Q. Did you talk with Hart about the murder? A. I never talked with none of them about the murder, because I figured that it was none of my business to talk with them about it.

"Q. You were being discreet, weren't you?

"(Witness made no answer.)

"Q. If you did not know they had killed Mr. Norris, why was it that you did not talk to them? A. Why should I ask them if they killed him or not? Is it any of my business to ask them?

"Q. But you did not suspect them of doing it? A. No, sir."

Now, then, which statement is true, Johnnie—the statement which you made under oath in Towson in the Socolow trial, or the statement which you are making now in this court?

Q. You heard what has been read to you; now tell us which statement is correct—that at the time you went to Wolf's house

you did know that Norris had been killed by Socolow and others, or that you did not know it? A. I knew it.

Q. So your statement at Towson was not correct? A. No, sir.

Q. Now, then, Johnnie, you went to the drugstore at the corner of 22nd and Charles Streets, and Socolow telephoned for a taxicab? A. Yes.

Q. Did he telephone to Mr. Wolf? A. He said he was going in and call Mr. Wolf up—I mean, to call up a cab to go to Mr. Wolf's house.

Q. Did he telephone to Harry B. Wolf? A. No, sir; he didn't telephone.

Q. Did you ever make a statement to the State's Attorney or to Mr. Poe that Socolow had called up Mr. Wolf and made an appointment to go out there? A. No, sir; I never did.

Q. Did you ever make any statement from which that could have been inferred or construed? A. The onliest thing I told him was that Socolow went in and called a taxicab up.

Q. You never told anybody that he called Mr. Wolf up? A. No, sir.

Q. As a matter of fact, your visit to Mr. Wolf's house was a complete surprise to Mr. Wolf; was it not? A. Yes.

Q. He had not the slightest idea you were coming out there, and no notice of it at all? A. No, sir.

Q. You left the graveyard about what time? A. It was about five o'clock.

Q. You left the graveyard about five o'clock and you walked across the city to Charles and 22nd, and there you called a taxicab, and what time was it when you called the cab? A. I just couldn't say what time it was.

Q. Was it before ten o'clock, or before eight o'clock, or seven o'clock, or six o'clock, about what time was it? A. It was about quarter of seven.

Q. About what time? A. Quarter of seven.

Q. About quarter to seven? A. Yes.

Q. Now, after the taxicab came what route did you take out to Mr. Wolf's house, do you know? A. Went out through Druid Hill Park.

Q. Yes, and which other way? A. Then the driver shot from Druid Hill Park to Park Heights Avenue, then out Park Heights Avenue and passed Pimlico we did.

Q. Did you have any trouble finding the place? A. We didn't have no trouble. The chauffeur was supposed to know where Mr. Wolf lived.

Q. Now, then, Johnny, isn't this a fact, that when you got out to Mr. Wolf's house that one or the other of you rang the doorbell, it doesn't make any difference, and you stopped at the steps to the north side of his house, didn't you, where the roadway passes? A. Yes.

Q. And there is a porte cochere there to shelter automobiles and carriages and things of that sort when they stop at the doorway? A. Yes.

Q. Now, then, you were admitted through that door that enters on to that porch? A. We went up on the porch.

Q. You went up on the porch and you made your presence known, and then a lady came to the door, didn't she? A. Yes.

Q. Now, Mr. Wolf and his family were eating supper at that time, weren't they? A. Yes.

Q. And the lady let you in and took you to the corner room, did she? A. Yes.

Q. And you seated yourself in that room? A. Yes.

Q. And the light was turned on, wasn't it, the electric lights were turned on? A. Yes.

Q. The blinds were up, weren't they? A. I don't remember.

Q. But the house was lighted and it was after dark when you arrived, wasn't it? A. The lights were on when we got there. I do not remember if the street lights were on.

Q. Now, then, you sat down in that room after the lady let you in, and the lady did not know who you were, did not know your name? A. No, sir.

Q. Did not know Socolow's name? A. No, sir.

Q. You did not give your name, did you? A. No, sir.

Q. And she went back, did she, she left? A. Yes.

Q. Now, then, it was some considerable time before Mr. Wolf came, wasn't it? A. He came in.

Q. He didn't come in until he had finished dinner, did he? A. We went in and a couple of seconds later Mr. Wolf came in.

Q. A couple of seconds are one, two, just that length of time? A. He came in in about four or five minutes.

Q. Then, instead of a couple of seconds, it was four or five minutes. Aren't you still mistaken about that? Wasn't it much longer than four or five minutes? A. No, sir.

Q. Did you have one of these two watches you had bought that afternoon? Did you have your watch with you? A. Had a watch with us, yes, sir.

Q. Did you take any notice of the time? A. No, sir.

Q. Now, then, after a bit—anyway, you said at first it was two seconds and then later you said it was four or five minutes—anyway, Mr. Wolf and his family had finished their supper and left the dining room? A. He came in to where me and Socolow was.

Q. And Mr. Wolf's family was along—didn't you see several ladies there? A. I seen several ladies in the house.

Q. Mr. Wolf's house had a great big hall in it, hadn't it, that runs east and west, a very wide hall? A. I don't remember.

Q. Yes you do, or I expect you do, with a staircase starting from the hall and running up, you remember that? A. I don't remember that.

Q. Surely you must remember that, son? A. When we walked in?

Q. No, the hall where you walked in was a narrow hall, about the width of this table (indicating counsel table), about as wide as this table is long—that is where you entered the house? That opens into a large hall, doesn't it? A. I know it was a big room we walked right into.

Q. All right. Now, then, they had no solid doors between those rooms and the hall? A. No, sir; not as I know of.

Q. Just curtains hung, portierres, and wide open, very wide entrances, weren't they? A. Yes.

Q. Now, Mr. Wolf came in and he did not know you? A. No, sir.

Q. He had never seen you before? A. No, sir.

Q. Did not know your names? A. No, sir.

Q. Never heard of you? A. No, sir.

Q. You had no business with him in your life? A. No, sir.

Q. And your family never had any business with him? A. No, sir.

Q. When Mr. Wolf came in he recognized Socolow, didn't he? A. Yes.

Q. Do you know whether Socolow had had any previous business relations with Mr. Wolf? A. I do not understand what you mean.

Q. All right; that is all right. Now, then, when Mr. Wolf came in he said something like this: "My God, what are you doing out here," didn't he? A. Yes.

Q. He was tremendously surprised to see you, wasn't he?
A. Yes.

Q. And did he know you had come in a taxicab? A. Yes. He asked what did we come in a taxicab for and said, "It is a wonder they did not take us right into the station-house."

(The Witness): He wanted to know what we came in a taxicab and said, "It is a wonder the taxicab driver didn't take you to the station-house."

Q. Now, then, he met you in this room where you first sat down and then he took you back in the kitchen? A. Yes.

Q. And asked the cook if she had any objection to your washing up? A. Yes.

Q. You were both pretty dirty? A. Yes.

Q. One of you said you were hungry, didn't you? A. I don't remember.

Q. At any rate, Mr. Wolf asked the cook if she had any objection to giving you a little something to eat? A. I don't remember.

Q. At any rate you got something to eat out in the kitchen? A. Yes.

Q. Did you eat anything? A. Yes.

Q. What did you eat? A. I don't remember what I ate.

Q. A cup of coffee, wasn't it? A. And there was some other stuff there too.

Q. He had plenty of stuff there, but that is all you ate? A. Yes.

Q. What did Socolow eat? A. He ate the same as I did.

Q. Now, then, Mr. Wolf and a lady accompanied him back to the kitchen with you, did she—a lady went along with Mr. Wolf? A. Mr. Wolf came back. I don't know if the lady came back or not.

Q. You said awhile ago Mr. Wolf went out in the yard—
A. While we were eating.

Q. While you were eating Mr. Wolf went out with the lady to feed the horse, I think you said, at Towson? A. He didn't go out with the lady.

Q. Don't you remember you said at Towson that he went outside to feed the horse and had a lady with him? A. I said he went outside to feed the horse, or put the horse away. I think it was a pony.

Q. Whether the lady was with him or not doesn't make any difference. You were not very welcome visitors that night? A. No, sir.

(Mr. Dennis): The ladies were scared to have you out there, weren't they? Weren't they nervous? A. They didn't say nothing to me.

Q. It didn't seem like that to you?

(The Witness): I never took any notice of them.

Q. You were pretty badly scared yourself, weren't you? A. No, sir.

Q. Was Socolow frightened? A. No, sir.

Q. You had ironclad nerve, both of you. After Mr. Wolf stepped outdoors and came back you two boys had washed up in the kitchen and had had something to eat in the kitchen, hadn't you? A. Yes, sir.

Q. And did you ever tell anybody you had your food in the dining room, or in some other room other than the kitchen? A. In the pantry.

Q. You said pantry but, as a matter of fact, it was the kitchen where you ate? A. Yes.

Q. Who told you to say pantry? A. Because I knew that is what it was.

Q. You said awhile ago it was the kitchen. Now, which was it, pantry or kitchen? A. I didn't say the kitchen. I know they call it a pantry.

Q. After you had eaten and Mr. Wolf came back and he told you to go on out ahead of him, go out of the kitchen ahead of him, back into the big hall? A. I don't remember.

Q. You don't remember that? A. No, sir.

Q. But, at any rate, he conducted you to his dining room, didn't he; the big room? A. The big room?

Q. On the south side of the building? A. Yes.

Q. That is right, isn't it, Johnny; that is correct? A. He took us out on a little porch.

Q. Hold on a minute. He conducted you to the dining room, and everything had been cleared away; hadn't it, or was there still the remains of the dinner on the table? A. In the big room, you mean?

Q. Yes. A. Yes, sir.

Q. Yes, sir, what? A. He left us in there, and then he took us into a porch.

Q. Now, then, Johnny, I am going to ask you this, because we will prove it is a fact, that you and Socolow and Wolf stood up in that dining room, and you never sat down at all; isn't that correct? The first time you were in there that you stood up right near the entrance to the dining room? Now, think that over, my boy. A. What do you mean; when we first walked in?

Q. Yes. When you first walked in in front of the kitchen? A. Me and Socolow were sitting down in there.

Q. Have it that way if you want. And Mr. Wolf came in, and he had only been there long enough to greet you and say, "What about it, boys?" or something like that, when Mr. Hammersla was announced; isn't that correct? A. We were sitting on the porch, and Socolow told him how he killed Mr. Norris.

Q. Listen just a minute—

(Mr. Poe): That is his answer to the testimony—

(Mr. Dennis): I want to set him right.

(Mr. Leach): You want to upset everything he said.

(Mr. Dennis): You folks have been coaching him for—

(Mr. Poe): That is a great outrage and I resent it. The first time I saw him was Friday, and I said to him, You have made a lot of statements, and we want you to understand before you make any statement to us at all that we only want the truth. If you have been lying up to this time and bringing Mr. Wolf's name into this without any justification, we want you to tell us now, and we do not want you to get on the stand and make any statement about Mr. Wolf which is not true. I resent the statement of Mr. Dennis that we have coached this young man and put him up here to blast Mr. Wolf's reputation. We are not responsible for Mr. Wolf's actions that have brought this upon him, and I do resent any suggestion that we are dictated by any motives of hostility and that we are trying to persecute him. If your Honors please, we want the truth, and if the truth hurts him it is not our fault. If this boy is lying, let it be brought out here. He was told the first and only time I saw him—

(Mr. Robinson): What was he told the other times?

(Mr. Poe): I don't know, but I read a manuscript record of what he was told and I know what he has been told from the beginning. No one wants to injure any innocent man, but we have a duty to perform here.

(Mr. Dennis): I would like to call attention to the fact that the Bar Association charges, signed and sworn to by Mr. Poe—

(Mr. Poe): That will take care of itself.

(Mr. Leach): It is for the purpose of distracting attention, and not for any other reason.

(Mr. Dennis): What is the excitement?

(Mr. Poe): Because we were told we coached this witness. Any gentleman would resent it. It is not a statement that ought to be made by one gentleman to another.

Q. (By Mr. Dennis): Now Johnny, that the excitement is over—

(Mr. Poe): A reputable member of the bar should not make it to another member of the bar.

(Mr. Parke): There is nothing before the court; is there?

(Last testimony of the witness and remarks of counsel read to the Court by stenographer.)

(The Court): We think that it is improper to make remarks of that kind. It is all right in the argument—

(Mr. Dennis): So far as the Court is concerned, I will apologize.

(The Court): Counsel under the strain and excitement is liable to make some such remark—

(Mr. Dennis): I said, "You folks," meaning the State authorities. I think I can substantiate that before we get through.

(The Court): That is for you to argue to the Court, but not as a comment in the examination of the witness.

(Mr. Dennis): I did not specify Mr. Poe or Mr. Leach. I said, "You folks," meaning the State authorities.

Q. Where was it you were sitting down; in the kitchen or in the dining room? A. Sat for about an hour and a half or an hour on the porch.

Q. I mean after you got something to eat and left the kitchen and went to the dining room; how long were you in there before Detective Hammersla came? A. We were on the porch when he came.

Q. How long were you on the porch or dining room—have it your own way—before Hammersla came? A. That was after Mr. Socolow told Mr. Wolf how he came to kill—

Q. I asked you how long he was there? A. He just told him that story before Mr. Hammersla came.

Q. How long were you there? A. About a half an hour.

Q. You then talked to Mr. Wolf half an hour before Mr. Hammersla came; is that the idea? A. I was not talking; Socolow was talking.

Q. Now, we are splitting hairs. You and Socolow and Wolf were together on the porch for thirty minutes before Hammersla came; is that right? A. Yes.

Q. Is that your testimony on that? A. Yes.

Q. Hammersla was announced, and how long did Mr. Wolf absent himself—that is to say, he had a talk with Mr. Hammersla? A. About 15 minutes.

Q. While Hammersla was there was he interrupted to answer the telephone or not? A. He came back to answer the telephone.

Q. Oh, no. Now, listen to me; you don't quite understand me. He left you boys and went out on the porch to talk to Mr. Hammersla; didn't he? A. Yes.

Q. While he was talking to Hammersla was his talking with Hammersla interrupted by a telephone call? A. I don't remember.

Q. You don't know whether he answered the telephone or not? Let me ask you another thing: Mr. Wolf had other visitors that evening besides Mr. Hammersla, didn't he? A. Yes.

Q. Do you remember when those folks came? A. Yes.

Q. When was that? A. That was when Mr. Wolf came back and sit down with us.

Q. He did not come back to see you until after this other crowd had left; did he? A. What other crowd?

Q. The other gentleman that came to see him? A. After this detective left Mr. Wolf came back to us.

Q. Between the time the detective left and the time the other people came, is that correct; do you understand me? A. Yes; after the head detective or whatever you call him, after he had left, Mr. Wolf came back and sat down, and after he sit down with us these three fellows came.

Q. After Hammersla left he came back to talk to you men on the porch, you say, and he was interrupted by the arrival of another set of visitors? A. By the telephone bell ringing.

Q. When did the other set of men come? A. The telephone bell rang, and someone come. I think it was said, "Bring the body to Baltimore," or something like that, and then he came in and talked to us awhile, and then three fellows came in.

Q. Where did he take them to talk to? A. In the big room.

Q. In the room you went in first? A. When we first came in.

Q. How long was he talking to them? A. About fifteen minutes.

Q. What was he talking to them about; do you know, Johnny? A. They were supposed to be bootleggers.

Q. Talked to them about bootlegging? A. I did not hear them talk. He came in and said—

Q. How did you know they were supposed to be bootleggers? A. Mr. Wolf said it was something about—a case about liquor or something.

(Mr. Dennis): I have great difficulty understanding the witness. Didn't you understand me, John? A. No, sir.

Q. I mean taking the first time you three talked together, which was before Hammersla came, according to your statement? A. Yes, sir.

Q. And taking the second time you were talking together, according to your statement, which was after Mr. Hammersla left? A. Yes, sir.

Q. Taking the third time, according to your statement, which was after the other crowd left, how much does those three periods amount to? A. The time we sit and talked to Mr. Wolf?

Q. Yes. That is correct. A. Either an hour or an hour and a half.

Q. You were in actual conversation with Mr. Wolf for an hour or an hour and a half? A. Yes, sir.

Q. Now, Johnnie, I will try to get at it again. Now, listen to me carefully, and I am going slowly. I don't mean how long you were in Mr. Wolf's house, you understand that? A. I understand.

Q. But I want to know how long you were talking to him altogether? A. Talking to him about an hour.

Q. That is your best judgment about it; isn't it? A. Yes, sir.

Q. And in that time Mr. Wolf advised Socolow to give himself up? A. Yes, sir.

Q. Mr. Wolf used some cuss words? A. (After hesitation): Not as I can remember.

Q. Didn't use any cuss words. He warned Socolow not to run away; that it would be the worse for him, didn't he? A. Yes, sir.

Q. He told Socolow that he ought to surrender, didn't he? A. Told him he ought to surrender and give himself up at the Northeastern Police Station.

Q. And he told Socolow he had done, what was it, a terrible thing? A. A brutal thing.

Q. Had done a brutal thing. And he told Socolow that he wouldn't represent him as a lawyer, didn't he? A. Yes, sir.

Q. Did he tell why he wouldn't represent him as a lawyer? A. The papers kicked about it, or something.

Q. The papers kicked about it. I see. Did Socolow pay him any money? A. No, sir.

Q. Offer to pay him any money? A. No, sir.

Q. I see? A. Socolow owed him some money.

Q. And in spite of that Mr. Wolf said he was willing to lend him two hundred dollars if he hadn't killed the man? A. He said, "You could have come to me and I would have lent you a couple of hundred dollars."

Q. If he needed the money, he didn't have to kill a man, to come to him? A. I don't remember him saying he didn't have to kill anybody, but I remember him saying, if you needed a couple of hundred dollars, if you had come to me I would have lent you.

Q. Now, Johnnie, did you tell Mr. Leach or Mr. O'Connor or the police authorities, about the confession, or alleged confession of Allers, I mean of Socolow at Mr. Wolf's house before the Smith-Carey trial? A. Yes, sir.

Q. And they all, of course, knew about it at the time you testified in the Socolow trial at Towson about ten days or two weeks ago, that is right, isn't it? A. (After hesitation): What?

(Note.—Question here re-read by stenographer as follows: "And they all, of course, knew about that the time you testified in the Socolow trial at Towson about ten days or two weeks ago, that is right, isn't it?")

A. Yes, sir.

Q. Now, Johnnie, you testified at considerable length in the Socolow trial, didn't you, at Towson, didn't you? A. (After hesitation): I testified, yes, sir.

Q. Why didn't you testify at Towson in the Socolow trial about this trip to Mr. Wolf's house and Socolow's confession? Did you testify to that? A. Why I testified because after Frank Allers came off the stand and a cop came in and said it looked like Socolow was going to get strung, so I wasn't going to testify first, so I figured I would go in and tell he didn't try to kill the man.

Q. Well, you were going to testify either way then at Towson, then, is that our understanding of it?

Q. (Continuing): But, as a matter of fact, you went in and testified that Socolow told Wolf that he did shoot Norris, but intended to shoot him in the leg, didn't you? You testified to that at Towson? A. Yes, sir; I testified to that.

Q. Now, at the time you were at Towson you knew that, according to your own statement here today, that there had been this scheme on the part of Socolow and yourself and Wolf to frame Allers and exonerate or to clear Socolow, didn't you? A. I went up to clear Socolow.

Q. Yes, you went up to clear Socolow, and did you testify to that at Towson, that there was this conspiracy?

(Mr. Leach): He was told distinctly not to mention it, your Honor.

(Mr. Dennis): Now, wait just a minute, Mr. Leach.

(Mr. Leach): That boy was told by the Court not to say anything.

(Mr. Grason): Oh, no; he wasn't. The records don't say that.

(Note.—Question here re-read by the stenographer as follows):

"Q. Yes, you went up to clear Socolow, and did you testify to that at Towson, that there was this conspiracy?" Answer me yes or no.

(The Court): He might not know what that means.

(The Witness): I don't understand what you mean.

Q. Here you are, Keller. You testified awhile ago that Socolow said at Wolf's house that they had framed the thing up and that you would tell this story about Boston, etc., and your object was to fool the police, wasn't that right? A. Yes, sir.

Q. And Socolow was a party to that. Now, then, when Socolow was on trial at Towson, did you say anything at all on the witness stand about that fact and instance?

(Mr. Leach): He wasn't asked.

(The Court): You can ask him that afterwards, but they have a right to ask the question.

Q. And Socolow was a party to that. Now, then, when Socolow was on trial at Towson, did you say anything at all on the witness stand about that fact and instance?

(The Court): Now, do you understand that, John?

(The Witness): I wasn't supposed to say nothing about Mr. Wolf's case.

Q. Why weren't you supposed to say anything about Mr. Wolf's case when Socolow was on trial and Socolow was accused by you of conspiring? A. He told me, Don't go into the case unless I have to.

Q. Who told you that? A. Mr. Leach told me that.

(Judge Duffy): He told you not to go into that case?

(The Witness): Mr. Wolf's case.

Q. At Towson when you testified why didn't you tell the Court and jury about this conversation you now tell about where Mr. Wolf advised Socolow to give himself up and the conversation that occurred at Mr. Wolf's house; why didn't you tell the Court and jury about that? A. If I had told them that, they might have hung Socolow.

Q. If you did not want Socolow hung and did not want to tell all of the truth as you now state it, or at least your story

as you now state it, why did you tell part of it by saying that Socolow admitted to Wolf that he had shot Norris in the body when he intended to shoot him in the leg? A. If I would not have taken the stand, there would have been another party who would have taken the stand and tell what happened—

Q. At Mr. Wolf's house? A. No. What happened at Madison Street. So I just figured I would take the stand and say that he told Mr. Wolf that he shot the man in the leg and did not try to kill him.

Q. Were you trying to protect Mr. Socolow at Towson, or were you trying to hang him; which were you trying to do? A. Trying to protect him.

Q. And you told what was untrue in order to protect him; is that the idea? A. Everything was true. I had to tell everything that was true except about him telling Mr. Wolf that he shot the man in the leg.

Q. Why did you have to tell that? Mr. Leach knew it, didn't he? A. If I had not told that, they would have brought this party in.

Q. What party? What party would they have brought in? A. (addressing Mr. Leach) Is it all right for me to tell, Mr. Leach?

(Mr. Leach): That is all right, Johnny. Tell him.

(The Witness): Jack Hart.

Q. Jack who? A. James Hart.

Q. What was the objection to bringing this other party into it—James Hart? A. If I would not have got on the stand and testified, he would have come in on the stand and testified.

Q. He could not have testified to anything that happened at Wolf's. How did he know what happened at Wolf's? A. He would not have testified anything about Wolf's house, but he would have testified against Socolow as to the man that killed Mr. Norris.

Q. How do you know that? A. Because I heard that he was going to go on the stand and testify.

Q. Who told you that? A. Who told me that?

Q. Yes? A. When I read it in the paper at Towson.

Q. You got it out of the papers at Towson? And that is the reason that you told an untruth under oath at Towson; is it? A. I told everything that is true, except—

Q. You were in the room and talked to Hart at Towson; weren't you? A. Yes.

Q. Now then, Johnny, when you were at Towson you said on the stand that you were supposed to tell all you knew or tell everything, but you heard a crack out in the hall that made you change your mind; what was your meaning in that? A. I heard a crack in the hall?

Q. Yes, heard a crack out in the hall, heard some one make a crack out in the hall, what did you mean by that?

(The Court): What hall?

(Mr. Leach): He is referring to an incident in the trial at Towson, if your Honor pleases. It is not proper cross-examination.

(Mr. Dennis): We want to test this gentleman's veracity.

(Mr. Leach): Go ahead; I do not care.

Q. (By Mr. Dennis): While we are finding that page of the Record, Johnny, let me ask you this: You testified at Towson that you were wanted for stealing an automobile, didn't you? A. Yes.

Q. And you testified at Towson that you stole a still because you wanted to steal it, didn't you? A. Yes, sir.

Q. And you testified in the Smith and Carey trials that you stole a still because you were going to get paid \$25 for helping to do it, didn't you? A. Yes.

Q. Was that true? A. Which?

Q. That you were going to get \$25 for stealing the still? A. I did not know how much I was going to get.

Q. You knew you were going to get something; you went into the place yourself, didn't you, to get the still? A. I went in first and then that guy went in and broke the lock and then a couple of fellows came in.

Q. And for several days after the murder of Mr. Norris you were trailing around with Hart and Socolow and feeding them and hiding them and getting them newspapers and information, weren't you? A. Yes.

Q. In other words, there are these cases pending against you: The present case, a case as accessory to the murder of Norris, accessory after the fact, for stealing the still, and the automobile case; now what has Mr. Leach told you that he is going to do with you in reference to all those four cases?

(Mr. Leach): There is no such case as an automobile larceny case against him.

Q. (By Mr. Dennis): Now, Johnny, there is no question about your being indicted in this present case; what did Mr. Leach tell you that he is going to do to help you in this case? A. He promised me a job.

Q. Where is he going to get you a job, in the State's Attorney's office or in some bank or trust company? A. I don't know.

Q. Did he say how much he is going to pay you? A. He didn't say no pay.

Q. Are you being paid during the time you are locked up; have you been promised pay during the time you are locked up? A. No, sir.

Q. Did you go into particulars with Mr. Leach about the character of job you were going to get? A. No, sir.

Q. You like an easy job, because you only work from five minutes up in a job, what kind of a job was he going to give you? A. He didn't say.

Q. Were you satisfied with that promise, that he was going to give you a job? He told you he would give you a job if you testified against Mr. Wolf in this case, didn't he? A. He said if I tell the truth.

Q. If you told the truth against Mr. Wolf in this case he would give you a job, did he? A. He said he would have me paroled.

(Mr. Dennis): Now, then, Mr. Keller, let me read you from page 835 of your testimony in Towson: "Didn't he tell you—meaning Mr. Leach—"that he would not only do that but he would get you off and give you a job?" "A. I will tell you: I told about Boston and Chicago—" "Q. One minute now." "(The Court): He has a right to have his questions answered categorically first and then if there is any explanation the witness can state it." "Q. Didn't the State's Attorney tell you he would get you off and give you a job." "A. He told me that." Now, you testified to that at Towson, didn't you, Johnny? A. Yes.

Q. Was that true?

(No response.)

Q. Was that true? A. I don't know if it is true or not.

Q. Don't let Mr. Leach answer it, tell us if it is true or not?
A. I don't know if it is true.

Q. You swore to it out there?

(Judge Stanton): He means he does not know whether it is true that Mr. Leach is going to get him a job. That is what Mr. Leach said to you?

(The Witness): Yes.

(Mr. Robinson): He didn't say that?

(Judge Stanton): He said exactly that same thing not two minutes ago.

Q. (By Mr. Dennis): When was it that Mr. Leach promised to get you paroled and get you a job, how long ago? A. Last night.

Q. Last night he promised to get you paroled and get you a job? A. Yes.

Q. What were you to do in order to get a parole and in order to get a job? A. He just said to tell the truth.

(Mr. Dennis): Why was it he made the promise the second time to get you paroled and to get you a job, do you know?

A. No, sir.

Q. What did he say about that, just repeat the conversation as best you can? A. He said—

Q. Turn around and talk to the Court? A. He said, "You will be over there every day during the trial and you will have a separate case of your own and the judge will parole you."

Q. When is the first time that the State's Attorney told you that he would get you paroled? A. Last night.

Q. Oh, no, you testified to that at Towson?

(Mr. Leach): No, he didn't. That is the point I was trying to make.

(Mr. Dennis): Give me the record.

Q. You have got a nice new suit on. Who gave you that; your mother? A. Smith.

(Question by Mr. Leach): "Wiggles"? A. "Wiggles" Smith.

Q. Yes. Now, John, you went down to Mr. Wolf's office on Thursday morning, on the Thursday morning of the twenty-fourth, didn't you? A. Yes, sir.

Q. And you sat there in Mr. Wolf's office, in the big reception room; didn't you? A. Yes, sir.

Q. That is right; isn't it? A. Yes, sir.

Q. Didn't you? A. Yes.

Q. And then Mr. Wolf called you over to him; didn't he? A. Yes, sir.

Q. And he asked you your name? A. Yes, sir.

(By Mr. Dennis): And you were right near the telephone stand where the boy sits that attends to the telephone calls? A. I was standing there; yes, sir.

Q. And at the time when he called you over to him it was two other gentlemen with Mr. Wolf at that time; wasn't it? A. Well, he called me over there, and then Captain Leverton was called over there, too.

Q. Now, just a minute.

(By Mr. Leach): Let him answer your questions.

(By Judge Gorter): Mr. Leach, please don't interrupt the examination.

Q. Were there or were there not two other men standing there talking with Mr. Wolf? A. I never took notice.

Q. You never took notice? A. No, sir.

Q. Now, when Mr. Wolf called you over to him he asked you if your automobile story was straight; didn't he? Whether it was straight or not; didn't he? A. Straight?

Q. Yes. Whether it was straight? Straight, or was true? A. I told him that it was an automobile charge against me.

Q. Yes; that is right. You did tell him that there was an automobile charge against you? A. Yes.

Q. And then he asked you if you knew anything about the Norris murder; didn't he? A. Not as I can remember.

Q. Well, didn't he ask you if you knew anything about the Norris murder? A. No, sir.

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

(By Judge Duffy): May I ask Mr. Dennis where this conversation was had? Was it in Mr. Wolf's office or where was it?

(By Mr. Dennis): It occurred in Mr. Wolf's reception room. It is a large room, a reception room in his office across the street here in the Wolf Building. It is a large room about a half as large as this court room.

(By Judge Gorter): All right.

Q. (By Mr. Dennis): Now, after Mr. Wolf had talked with you for awhile then Captain Leverton came in there, didn't he? A. He came in at the same time that he came in.

Q. (By Mr. Leach): Who did, John? A. Mr. Wolf.

(By Judge Gorter): Now, Mr. Leach, please don't do that. That is what breaks up the examination.

(By Mr. Leach): All right, sir. I won't do it any more.

Q. (By Mr. Dennis): Now, listen to me, John. Now, then, Mr. Wolf told Captain Leverton that he was going to show him a boy that would tell him something about the Norris murder, didn't he? A. He said, "This kid would show him something."

Q. This kid would show him something? A. Yes, sir.

Q. Yes; and then didn't he tell Captain Leverton to treat you right if you told him the truth? That is what he told him, isn't it? A. Well, he said something to Captain Leverton but I never heard him.

Q. Well, didn't he say that if you told him the truth that he wanted Captain Leverton to help you? A. All I know is that he said something to Captain Leverton but I never paid any attention to it.

Q. Now, didn't he tell Captain Leverton that you were wanted on an automobile charge? A. Yes, sir.

Q. He did tell him that? A. Yes, sir.

Q. And that if you told him the truth that he wanted Captain Leverton to help you? A. He said something to him but I never took any notice of what it was that he said.

Q. Well, now, he told Captain Leverton to bring you back to his office after he was through with you, didn't he? A. Yes.

Q. And then after that, Mr. Wolf went into his own private office, didn't he? A. Yes, sir.

Q. And left you standing there alone with Captain Leverton? A. Well, he called a fellow over to take me and Captain Leverton down to the pond.

Q. That is right. And that fellow did take you and the Captain over to the pond, didn't he? A. Yes, sir.

Q. And then, when you got to the pond then you pretended to try to find the box and the tag, didn't you? A. I didn't find it.

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

Q. Well, you were fooling Captain Leverton or you were trying to fool him, weren't you? A. No; I could not find it.

Q. You were not fooling Captain Leverton or were not trying to fool him? A. No, sir.

Q. Well, now, you swore at Towson that you were? Didn't you say that you could not find it or that you did not want to find it and that you were just trying to gain time? Didn't you testify to that at Towson? A. Yes, sir.

Q. Yes. And you were testifying to an untruth out at Towson then, weren't you? A. I told them out at Towson that I could not find the box.

Q. And you also said that you fooled Captain Leverton too, at Towson, didn't you? Didn't you also say that at Towson?

(By Mr. Leach): I do not think that that is a correct statement of the testimony.

(By Mr. Dennis): Now, your Honors, we just want to get our brothers quieted down so that they will not be interrupting us every time that we ask this lad a question.

(By Judge Gorter): Yes, please do not interrupt, Mr. Leach.

Q. (By Mr. Dennis): Now, then, John, Captain Leverton took you down to the pond and then from there he brought you back to Mr. Wolf's office after an unsuccessful search for this box and the tag, didn't he? A. Yes, sir.

Q. And he left you sitting there in Mr. Wolf's office, didn't he? A. Mr. Wolf was there when he brought me back there.

Q. Well, he left you sitting there over in Mr. Wolf's office, didn't he? A. Yes.

Q. And all that Mr. Wolf asked you was what luck did you have, was it? A. Yes, sir.

Q. That is what you say? A. Yes, sir.

Q. And that was in his outside office, in the big waiting room, with a lot of people standing and sitting all around? A. Yes, sir.

Q. And everybody was out there who wanted to be there? A. Yes, sir.

Q. A great big room, a room half as big as this? A. Yes, sir.

Q. Now, then, Captain Leverton came back after you and he had Captain Lurz with him, didn't he? A. He said that he was going over to Gaither and was for following up the case himself.

Q. He said that he was going over to Gaither? A. Yes, sir.

Q. Now, then, he went back there again with you, didn't he, and he took you and Captain Lurz down there along with him, didn't he? A. Yes, sir.

Q. Now, then, you then went down to the pond and on the first visit that Captain Leverton had had with you there, you

pulled off your shoes and stockings and your pants and waded all through the place, didn't you? A. Yes.

Q. But you didn't find it? A. No, sir.

Q. Now, then, after you went down there the second time, with Captain Leverton and with Captain Lurz, they got some help then and they found the box and the tags, didn't they? A. Yes.

Q. And then they took you back to Norris' old business place where they had this box and the tag identified, didn't they? A. Yes, sir.

Q. And then Captain Leverton and Captain Lurz brought you back to Mr. Wolf's office, didn't they? A. Yes, sir.

Q. That is right? A. But first they brought me over to Howard Street where the box was made.

Q. I know. That is correct, but then, after that, they brought you back to Mr. Wolf's office? A. Yes, sir.

Q. Now, out at Towson, didn't you say in your testimony out there that (reading) I went first with Captain Leverton and I went in and I made out that I could not find the box and the tag so as to keep them away and so that I could frame it on them and then I came back? A. Yes, sir.

Q. You testified to that at Towson, didn't you? A. Yes.

Q. And it is not true? A. No, it is not true.

Q. And you told—well, I won't characterize it now. Now, then, when you got back to Harry B. Wolf's office the second time how long then did you stay there? A. About an hour or an hour and a half.

Q. An hour or an hour and a half? A. Yes.

Q. Did you have any talk with Mr. Wolf at all? A. No, sir.

Q. Now, then, you say that Captain Leverton came on over there after you later on in the afternoon at Mr. Wolf's office,

didn't he? A. He took me out in Mr. Wolf's office and then Mr. Wolf gave me something to eat, something to go and get something to eat with and then Mr. Wolf went up to the Central Police Station and I was there for about an hour or an hour and a half.

Q. Now, then, after that Captain Leverton came after you and took you to police headquarters, did he not? A. Yes.

Q. And at that time, Mr. Sherwood and Mr. Thompkins were inside there and they were sitting alongside of you when Captain Leverton came in there after you? A. Well, I only know that one man sitting there (indicating).

Q. Is Mr. Sherwood there? Do you see that man there (indicating); that gentleman sitting on the other side? A. I don't remember seeing him.

Q. Well, at any rate, you were sitting there in Mr. Wolf's office next to Mr. Tompkins, when Captain Leverton came in there after you? A. Yes, sir.

Q. And then Captain Leverton said to you, Come on; I want to take you over to Headquarters? A. He said, Come on with me.

Q. And didn't Mr. Thompkins say that he wanted to have an interview with you? A. He wanted to know my name.

Q. And you didn't tell him your name; did you? A. No, sir.

Q. And Captain Leverton didn't tell him your name, either; did he? A. No, sir.

Q. And so then Mr. Thompkins did not get any information out of you; did he? A. No, sir.

Q. Now, then, was Mr. Wolf there when you left his office with Captain Leverton for the Detective Headquarters? A. Yes, sir.

Q. Now, then, that is the occasion that as you said yesterday that Mr. Wolf asked you if you were going to frame Allers?

It was at or about that time? A. He said as he walked past me, Are you going to say that Allers took you and the box and the bag to the pond? And I said, Yes.

Q. And you were walking along with Captain Leverton at the time, and you were all in Mr. Wolf's big office, with people sitting all around you? A. Yes.

Q. And Mr. Thompkins and Mr. Sherwood, or, rather, Mr. Thompkins, the newspaper reporter, was nearby? A. Yes, sir.

Q. Now, then, I asked you awhile ago, or I asked you yesterday about that automobile matter. Now, then, Mr. Leach said that it was only a case of unauthorized use. Now, didn't you testify out at Towson that at the time or about the time of Mr. Norris's murder, that the police were after you? You testified to that at Towson, didn't you? That was a question that was asked you there? A. Yes.

Q. (reading) And your answer was, Yes, sir. Question. For what? And you testified, For stealing an automobile. That was your testimony out here at Towson; wasn't it? A. Yes, sir.

Q. Now, then, I asked you yesterday where Mr. Leach promised to give you a job and to give you immunity, and you said that he did it on the day before yesterday? Now, don't you recall testifying out at Towson that Mr. Leach promised you a job, and also promised you immunity about three weeks before the Socolow trial at Towson? A. He never did promise me nothing.

Q. He never promised you anything? A. No, sir.

Q. Well, now, Johnny, you testified at Towson that Mr. Hammersla was out at Mr. Wolf's house for about two seconds, and you have testified here yesterday that it was a considerably longer time than that. Which of those statements is correct? A. He was there for about fifteen minutes.

Q. So that when you testified at Towson that he was there for two seconds you were testifying under oath, and you were wrong?

Witness does not answer.

Q. Are you going to answer it? A. I just said it. I said that he was there for about fifteen minutes.

Q. All right, sir. That will do for an answer, then. Now, Mr. Poe was anxious for me to read to you from the record at Towson, which I will now do. Now, on page 840. Now, this question was asked you. Now, listen to me attentively, John (reading): Then the State's Attorney told you to tell everything and that he would get you a position; didn't he? Answer: He didn't tell me that until just about three weeks ago. Question: Did he tell you that before the Smith-Carey trial? Answer: Yes, sir. A couple of days before the Smith-Carey trial. Question: At that time before Mr. Norris's murder, the police were after you; weren't they? Answer: Yes, sir. Question: For what? Answer: For stealing an automobile. (To the witness) Now, then, was that your testimony at Towson? A. Yes, sir.

Q. And was that true what you had testified to at Towson that Mr. Leach had offered you a position only a few days before the Smith-Carey trial and three weeks before the Socolow trial? A. It was a couple of days before the Socolow trial that he promised me a job. He promised it, but if it was going to be in the Penitentiary I don't know.

Q. Now, then, let me read to you again (reading): Johnny, the State's Attorney told you to tell everything, that he would get you a position; didn't he? Answer: He didn't tell me that until about three weeks ago. (To the witness) Now, that is correct; isn't it? A. Yes, sir.

Q. And when you made that statement it was true? A. Yes, sir.

Q. Now, you were mistaken yesterday when you said that he had not promised you anything like that until just before this trial?

(By Mr. Poe): He didn't say that.

(By Judge Stanton): The testimony was yesterday that he had been told that he would be paroled. Maybe it was some confusion about that. The parole question only arose yesterday.

Q. (By Mr. Dennis): Now, John, just tell us exactly what Mr. Leach said to you when he promised you that he would get you a position before the Smith-Carey trial? Tell us his words as near as you can? A. Only once my mother came and he says, I will get him a job. After I went on out my mother said or somebody said it, he asked wouldn't it be better to put me away.

Q. But he did tell you that he was going to get you a job? A. When I was in there, yes, sir.

Q. Now, here (indicating), is what I asked you yesterday. (Reading.) Johnny, when was it that Mr. Leach promised to get you a parole, to get you a job? How long ago— A. Sunday night.

Q. (Continuing to read): Answer: Last night. Question: Last night he promised to get you a parole and to get you a job? Answer: Yes, sir. Question: What were you to do in order to get the job and the parole? Answer: He said, just to tell the truth. Question: What was the occasion for him telling you that last night? Answer: I don't know what he meant by it. (To the Witness): Now, then, Johnny, you also testified at Towson that in addition to stealing an automobile you had also stolen a still. That was correct, wasn't it? A. Yes, sir.

Q. And you also testified at Towson, something about "a crack" being made. Now, then, let me ask you what you mean by this Johnny, in your testimony at Towson? (Reading): Didn't the State's Attorney tell you that he would get you off and get you a job? Answer: He told me that. (By the Court): Now, if you want to make any explanation, you are at liberty to make it. (The Witness—that is you, Johnny): Now, here is what you are quoted as saying. (Reading): I was to tell everything that I knew. I was supposed to tell him everything that I knew. The day before the case came up and go to Court and I was supposed to get on the stand and deny it and when I went on the stand I heard a certain crack out in the hall and

that is what kept me from doing it. (To the witness): Now, what were you to deny? A. Why, when Jim Hart confessed it was no show for me to get on the stand.

Q. What? A. I said that when Jim Hart confessed it wasn't any show for me to get on the stand.

Q. Just explain that, will you? I don't understand? A. I confessed, you see. If I had gotten on the stand they had my confession and if I would not have talked they would have handed my confession to the judge and the judge would have read it and Jack Hart would have gotten on the stand and said that everything was in the confession.

Q. And what was the "crack" that you heard? A. I heard that he was crying down in his cell and he had gave some money up.

Q. What was that? A. I heard that he was crying down in his cell and that he had gave up eight or nine hundred dollars.

Q. Who told you that? A. I heard a lady in the hall testify to it.

Q. And was that what kept you from testifying to all that you knew out at Towson?

(By Judge Bond): I do not think that he understands you.

Q. (By Mr. Dennis): Now, then, John, won't you answer my question? Give it to him again? Read the question?

(By Judge Duffy): That question is too general.

(By Mr. Dennis): Yes, sir. Thank you so much for the suggestion, your Honor. (To the Witness): Now, I will ask you for any explanation that you care to make from that passage of your testimony that I just read to you as you gave it at Towson? A. Well, when I was out to Towson they asked me what did Socolow say to Mr. Wolf and I didn't know whether to talk or not. If I had said that he hadn't killed a man, Jack Hart would have come on the stand—

Q. But he had told that to Mr. Wolf? A. He just said that he shot a man. He didn't say that he tried to kill him.

Q. Now, that is a distinction. Now, then, again at Towson, you said in answer to a question (reading): Why, here in the last fifteen minutes, you told me that the State's Attorney had never promised to help you if you came here to testify? Now, your answer to that was (reading): He didn't tell me that he would help me. He said he would give me a job if I would get on the stand and tell you the truth about Mr. Wolf. (To the Witness): Now, was that your testimony at Towson? A. I told you that yesterday. He said that he would get me a parole on Sunday night.

Q. Now, he has seen you since he has promised to get you paroled on Sunday night, hasn't he? A. He has seen me every morning that I came in here.

Q. Has he talked with you? A. All he said yesterday was, How do you feel, and I said, Rotten.

Q. Now, how did you make your living in the last year? I know that you were on a ship for a time but how did you make your living in the last year? A. Make my living?

Q. Yes? A. I don't know what you mean.

Q. How have you gotten your money to support you and to pay your board and buy your clothes? A. Smith, Carey and Socolow used to give me money.

Q. And then you have been shooting crap, too, haven't you for a living? A. No, sir. I never did shoot crap.

Q. Now, then, let me ask you this, John: Didn't you testify at Towson, that, in answer to Mr. Grason's question, Where did you get it—meaning money—to put in your pocket? Answer: Where did I get it and put it in my pocket? Question: Yes? Answer: I shoot craps. Question: How often did you shoot craps? Answer: Whenever I saw a crap game I shot. Question: About how often was that? Answer: I don't know. (To the Witness): Now, you were a crap shooter, weren't you? A. Sometimes I shot craps.

Q. (By Mr. Leach): What was that? A. Sometimes I shot craps.

Q. (By Mr. Dennis): And you spent your whole time with what the newspapers and the public call the underworld, didn't you? A. I don't know what you call it.

Q. I see. Now, then. Every time that you have seen Mr. Leach or Mr. O'Connor or any of the State authorities, you have gone over this story with them, haven't you? A. Yes, sir.

Q. Every time? A. Yes.

Q. About how many times has that been? A. It has been twice before the Smith and Carey trial and about once before the Socolow trial and once before Mr. Wolf's trial.

Q. And they would tell you not to forget to say this and to say that and so on? A. He would just go over it. He would just tell me to go over it and I would go over it.

Q. Now, then, for days and days you were watching and helping Socolow and Hart to evade the police, weren't you? A. Yes.

Q. Feeding them and taking them papers and running their errands for them and staying in the grave yard with them and all of that sort of thing, weren't you? A. Yes, sir.

Q. Now, who was it that told you that when you got before Captain Burns that you were to laugh at him? You testified to that at Towson, too? A. Hart.

Q. Hart told you to laugh at him? A. Yes, sir.

Q. Now, when did he tell you to laugh at Captain Burns? A. He didn't tell me to laugh at Captain Burns. He said if they get you and if they catch you and start to question you, just laugh at them. And then when he was caught, they just said to him, "We don't want anything out of you," and then he went back in his cell and cried.

Q. Now, then, Johnny, did you know Captain Leverton? A. No, sir. Never knew him before.

Q. Did you know Captain Burns? A. No, sir.

Q. Or any of the police officials? A. No, sir. I never knew none of them.

Q. And you are a courageous young man to go up against all of them and try to put a story like that over on them? A. I tried to, yes, sir.

Q. Yes, and you tried your best, too, didn't you? A. Yes, sir.

Q. Well, did you anticipate that it might have landed you in jail? A. If they had tripped me up in any way it might have landed me in jail.

Q. And still you were not afraid to try it out? A. No, sir.

Q. And you were not afraid to go to the graveyard after midnight with a number of detectives whom you place at fifty I believe? A. No, sir. I wasn't afraid.

Q. What made you tell this story about this frame-up? A. To get Smith, Hart and Socolow out of trouble.

Q. Now, then, Johnny, let me ask you something. Why was it that in telling this story to the police officials that you put Allers in Baltimore City on Sunday night when almost everybody that knew anything at all about the case at that time, knew that Allers was in Atlantic City on Sunday? A. Why, it worked much better that way. When he said that he had an alibi, that he was in a hotel in Atlantic City, that was not any sign that he could not come back to Baltimore on that night.

Q. Go ahead. Have you anything else to say? A. No, sir.

Q. Well, that is all then about that. Now, then, you have told us or rather, tell us this. Mr. Leach at Towson and in the other trial has been quoted as saying (reading) Do you know that while Johnny Keller told what had happened out at Harry Wolf's, the darned fool—excuse me—he almost broke down—

(By Mr. Leach): Now, that is out of the argument. That is not the testimony.

(By Mr. Dennis): Well, that is the report from the stenographic notes as taken at Towson.

(By Judge Duffy): The report of what?

(By Mr. Dennis): The report of what Mr. Leach said. I want to ask him if he was scared when he was testifying at Towson.

(By the Witness): I was not going to Towson if it was not for Hart opening up.

Q. (By Mr. Dennis): You were not going to testify? A. No, sir.

Q. Were you scared when you were testifying at Towson? A. Scared?

Q. Well, frightened? A. No, sir; I was not.

Q. Well, were you afraid that somebody was going to hurt you? A. No, sir.

Q. Did you almost break down when you were testifying at Towson? A. Almost break down?

Q. Yes? Collapse? A. The onliest thing when they asked me what Socolow told Mr. Wolf about killing Mr. Norris, I didn't know what to say. I didn't know whether to say it or not for if I had then they would have brought Hart on the stand.

Q. Well, why didn't you know what to say? You knew that you could tell the truth, didn't you? A. I didn't know what to tell about Socolow telling Mr. Wolf or to keep quiet and don't talk at all.

Q. Well, why didn't you tell just what was the truth or at least, what you thought was the truth? A. They would have hung Socolow if I hadn't told it.

Q. But they would not have been hanging you? A. No, sir. They would not be hanging me.

Q. You were sworn to tell the truth? A. Yes.

Q. And you know what it means to tell a lie when you are under oath? A. I know.

Q. Yes. Well, now, Mr. Leach says of you (reading) Johnny, onery little rascal, petty thief, bad boy, all sorts of things that you want to call him—(to the witness): Are you all of that that Mr. Leach called you? A. I don't know—

(By Judge Gorter): Do you object to that question?

(Mr. Leach): Yes, sir.

(By Judge Gorter): All right. Sustained. The Court objects to that question.

(By Mr. Dennis): All right, sir. I hope that the Court will please pardon me. (To the witness): Now, John, you have been a pretty bad little boy, haven't you? A. I have been bad, yes, sir.

Q. And you have not worked—you were arrested on December the sixteenth, 1916, for operating an automobile without a license, weren't you? A. I never was arrested for no automobile case.

Q. August Ellis. Do you know him? A. No, sir; I don't know him.

Q. Of the Eastern District? A. No, sir.

Q. Now, then, on February the thirteenth, 1922, you were arrested as an incorrigible? You remember that don't you?

Q. (By Mr. Leach): Do you know what "incorrigible" means?

(By Mr. Dennis): Yes.

(By the Witness): The last time that I was ever arrested was five or six years ago. I was not arrested in 1922.

Q. (By Mr. Dennis): Now, you have not been arrested for five or six years, you say? A. No, sir.

Q. For five or six years? A. Yes.

Q. Are you certain about that? A. Yes.

Q. Now, before that, on February the seventeenth, 1917, you were arrested and charged with feloniously entering a store at 2001 Bank Street and the larceny charge against you was dismissed but you were found guilty of disorderly conduct and put on probation for one month under the care of Mr. Mueller. The officers in the case were Sergeant Nicholas Gatch and Officer Joseph Jeffres, of the Eastern District? A. Yes, sir.

Q. And you were arrested then? A. Yes, sir.

Q. For disorderly conduct. And that was on February the seventeenth, 1917? A. Yes, sir.

(By Mr. Leach): What year was that?

(By Mr. Dennis): February the seventeenth, 1917. He was arrested for feloniously entering the store at 2001 Bank Street and stealing seventy-five cents and twenty-five cents worth of pies, and the larceny charge was dismissed, and he was then put on probation for one month. Now, then, on April the ninth, 1917, just a couple of months later, you (to the witness) were arrested as a minor without proper care and sent to Saint Mary's Industrial School—

(By Mr. Leach): Oh, we will admit all that. Everybody knows that John has been a bad boy. We will admit all that.

(By Mr. Dennis): No; never mind about that. (To the witness) And the witness against you was your mother, Mrs. Rose Kellar, and Father Wheeler? A. Yes.

Q. Now, then, on October the twenty-seventh, 1917, down in the Eastern District you were arrested on a charge of disorderly conduct on the public street, and sent to Saint Mary's Industrial School, pending a further hearing on April the first, 1918, and you were dismissed on March the 20th, 1918. The officer in that case was Officer Harmon. That is true; isn't it? A. Yes, sir.

Q. Then, again, you were arrested down in the Eastern District for the larceny of one pair of rubber boots and one

lady's bracelet and one razor, and for that you were placed in the care of Probation Officer William Mueller for three months, further action sustained. The officers in that case were Sergeant Granville Bozeman and Officer George Fritsch. The prosecuting witness was Mary Sussman, of 1921 East Pratt Street. That is true, too, isn't it? A. I was not in that. That was a frame-up on me.

Q. A frame-up on you? A. Yes.

Q. But you were punished for it? A. Yes.

Q. So that you learned about frame-ups away back early in your life, in 1918, when you were only about thirteen years old? A. Yes.

Q. Now, then, on November the ninth, 1918, down in the Eastern District, you were arrested for the larceny of ten dollars from Mary Perel, and on November the sixth, 1918, you were sent to Saint Mary's Industrial School, pending a further hearing on December the twentieth, 1918. You were released on December the twenty-second, 1918, and Officer William F. Griese, of the Central District, and Mary Perel, of 209 Harrison Street, were the witnesses against you? A. That was another frame-up.

Q. Another frame-up? A. Yes, sir.

(By Mr. O'Connor): What was the outcome of that case?

(By Mr. Dennis): He was paroled.

(By Mr. O'Connor): Now, it does not say that at all. It says that he was dismissed.

(By Mr. Leach): What is the use of all this, anyhow? Everybody knows that Johnny has been a bad boy. It is simply wasting time to do this.

(Question by Mr. Dennis): Now, then, you say that you have not been arrested for five years? A. Yes, sir.

Q. And on November the sixth, down in the Eastern District, you were arrested charged with the larceny of a wrist

watch, valued at fifteen dollars, and a child's bracelet of the value of four dollars, and Sergeant Bozeman and Officer George Fritsch were the officers in the case, and the witness against you in that case was Kate Feldstein. Now, that case was dismissed, but it occurred on the same day as the other case? A. Well, that was another frame-up.

Q. That was another frame-up, too? A. Yes.

Q. But you have been arrested then within five years? A. Yes, sir.

Q. On February the fifth, 1919, down in the Eastern District, you were arrested on a charge of disorderly conduct on the public streets, and you were fined two dollars and costs, and there was a fine of three dollars and forty-five cents paid. The officers in charge of the case are Sergeant John H. Holzer and Officer Charles Grauling, of the Eastern District, and the witness was Mrs. Rosie Potkowitz, 1115 East Lombard Street. What about that? A. Yes, sir.

Q. Another frame-up, or is it true? A. It is true.

Q. Then on February the thirteenth, 1922, that is this year, you were arrested as an incorrigible— A. When? 1922?

Q. That is when you left home. February the thirteenth, 1922?

(Question by Judge Stanton): Do you know what he means by being incorrigible? A. I was locked up; yes, sir. And they let me right out when my people came down there. I didn't have no hearing or nothing. They just put me back in the cell and locked me up.

(Question by Mr. Dennis): Who went down there after you? A. My father.

Q. And who put the charge against you? A. My mother.

Q. Now, about three weeks ago, I mean about three weeks before the Norris murder, you broke into a moving picture parlor on Broadway and stole a lot of tickets; didn't you? A. Who? Me?

Q. Yes. A. No, sir. Not me.

Q. And you gave those tickets back to Mr. Barrol(?), a one-armed man, who came up to your house to get them; didn't you? A. No, sir. Not me.

Q. And your mother and father begged that you not be prosecuted for that? A. No, sir. Not me.

Q. Do you know Mr. Barrol when you see him? A. I know him.

Q. There (indicating) is the man? Do you know him? A. I know him.

Q. And you deny that; do you? A. I know him.

Q. Do you deny that you broke into the moving picture parlor and stole the tickets, and that Mr. Barrol had recovered the tickets, and that your people asked that you be not prosecuted? A. I deny that I broke into his ticket box.

Q. Who did? A. I don't know who did.

Q. How did you get the tickets? A. From fellows that lived around my way.

Q. Who did you show the films to? A. It was no films. It was just tickets put in there.

Q. And you gave them away; didn't you? A. I didn't give no tickets away. They were given to me.

Q. What did you do with them? A. I don't know what I did with them.

Q. Now, then, didn't you give them back to Mr. Barrol? A. Not as I can remember.

(By Mr. Dennis): Since you have been locked up, haven't you said that Captain Leverton had nothing to do with this frame-up story? A. He had nothing to do with it; no, sir.

Q. And haven't you said that Mr. Wolf had nothing to do with it? A. To do with what?

Q. With the frame-up story? A. I don't know what you mean. It was no frame-up—

(By Judge Stanton): Well, Leverton did not come on the scene until everything was ready.

(Question by Mr. Dennis): Haven't you said, Johnny, since you have been in the charge of the police, that Mr. Wolf had nothing to do with this scheme? A. That is when they first took me over to Headquarters.

Q. Yes. A. I told them that Mr. Wolf did not know anything about this.

Q. When did you say that? A. When they first took me over to Headquarters.

(By Mr. Leach): He said that. When he was first taken over to Headquarters.

(By Mr. Dennis): Now, let him answer.

(By the Witness): When they first took me over to Headquarters and questioned me, I said that to Captain Burns, because Captain Leverton took him outside and he said something, and I said that Leverton was a liar and Mr. Wolf didn't know anything about it.

(Question by Mr. Dennis): But haven't you said that much later than that? In the last three weeks? A. No, sir.

(By Mr. Dennis): Now, the witness is with you, Mr. Grason.

(By Judge Duffy): You cannot contradict him on that last question without stating to him in your question the time and the place and the circumstances of his making it.

(By Judge Gorter): You cannot contradict him at all because he has said that he said it.

(By Mr. Dennis): But he said that he said it earlier in the game, if your Honor pleases.

(Judge Gorter): Go on.

(By Mr. Dennis): Now, the witness is with you, Mr. Grason.

(By Mr. Grason): I want to ask the witness a few questions if the Court pleases. (To the witness): Keller, when you were at Towson, you were only in the court room, in the presence of the jury while you were testifying, is that right? A. Yes, sir.

Q. And before you were put upon the stand you were out in the room where the State's witnesses were all put, weren't you? A. Yes, sir.

Q. Did you see Jim Hart there? A. Yes, sir.

Q. Talk with him? A. I could not talk with him because the cop was sitting alongside of me.

Q. You saw him but did not talk to him? A. He said, "How are you? How are they feeding you?" I said, "All right," and that is all that he said.

Q. That is all that he said? A. Yes, sir.

Q. And nothing was said about this case, about Mr. Wolf's case or Socolow's case? A. You couldn't talk about it.

Q. Now, when had you last seen Jim Hart before you saw him at Towson in this room with the other State's witnesses? A. The last day of Socolow's trial.

Q. That was the last time that you saw him? A. Yes.

Q. Yes. But before you saw him at Towson when was the last time that you had seen Jim Hart? A. The last time was out in the graveyard.

Q. Out in the graveyard? A. Yes, sir.

Q. That is the day that he left and went to Washington wasn't it? A. Yes.

Q. Now, you have told the Court here that when Jim Hart left and went to Washington, that you did not know that Hart and Socolow were implicated in Mr. Norris' murder didn't you? A. Yes, sir.

Q. I see. So then, you hadn't seen Jim Hart since he went to Washington at that time and you did not know that he was implicated in Mr. Norris' murder and you had not seen him from that time until you saw him at Towson. That is right, isn't it? A. Yes, sir.

Q. And you did not get an opportunity to talk with him at Towson because the police were there, is that right? A. Yes, sir.

Q. Now, will you tell the Court how you knew then that if you had not gotten on the stand and told what you did at Towson, that Jim Hart would have taken the stand? A. Why, they said that Hart would take the stand as a State's witness in the newspaper.

Q. So you saw that in the newspaper? A. Yes, sir. And I heard it out in the hall about him crying and giving his money up and telling the police that he would tell them anything that they wanted to know.

Q. Who did you hear that from? A. From a lady in the hall.

Q. So that you are telling here what you saw in the newspaper and what you heard from a lady in the hall and that is what made you say what you said at Towson about the Mr. Wolf business, is that right? A. Yes, sir.

Q. Now, I believe that you stated that Socolow told Mr. Wolf, I believe you stated at Towson that Socolow told Mr. Wolf that he did not intend to kill Mr. Norris, but that he shot him in the leg; is that right? A. Yes, sir.

Q. And that is all that you did say at Towson about that, isn't it? A. Yes.

Q. Now, when you told the judges at Towson, and the jury, that Socolow had told Mr. Wolf that he had shot Mr. Norris in the leg and had not intended to kill him, you remembered all of this that you have told these five judges didn't you? A. Yes, sir.

Q. How? A. Yes, sir.

Q. Well, why then didn't you tell it? A. Tell what?

Q. Why didn't you tell the judges and the jury out there what you have told these five judges? A. Because I was not supposed to go into Wolf's case.

Q. But you were asked about it, weren't you? A. Yes, sir. I was asked about it, yes, sir.

Q. Now, what you told at Towson that Socolow shot Mr. Norris in the leg and that he did not intend to kill him, was that the truth? A. No, sir.

Q. So that you deliberately stood up there at Towson before those three judges and that jury and told something that was absolutely unso, is that right? A. Yes.

Q. And you were under oath? A. Yes.

Q. And you knew that you were under oath, didn't you? A. Yes, sir.

Q. How? A. Yes, sir.

Q. Do you know what an oath is? A. Yes, sir.

Q. What is an oath? A. It means when you get up here you are supposed to tell the truth.

Q. Yes. And you tell the Court now, this Court here, that the reason that you told something before that was not so was because you believed that you were saving Socolow's neck, is that it? A. Sir?

Q. Didn't you tell the Court that the reason that you told an untruth out there was because that you believed that by doing that, that you saved Walter Socolow's neck, is that right? A. I don't know whether I saved him from being hung or not.

Q. Well, do you think that you saved him from being hung? A. I don't know.

Q. Well, you tried to save him from being hung by committing perjury at Towson, didn't you? A. Yes, sir. I tried.

Q. (By Mr. Leach): You say that you tried? A. Yes, sir.

Q. (By Mr. Grason): You tried to save him from being hung by committing perjury at Towson, didn't you? A. Yes.

(By Mr. Grason): That will be all.

(Examination concluded.)

Thereupon, LYELL P. BOSSOM, a witness of lawful age, produced on behalf of the State, being first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. O'Connor): Now, your full name to the Judges, please? A. Lyell P. Bossom.

Q. Where do you live? A. 606 South Monroe Street.

Q. Now, on the night of Wednesday, August the twenty-third, 1922, were you in the City of Baltimore? A. Yes, sir; I was.

Q. Were you at work on that night, sir? A. Yes, sir; for the Stewart Taxi Company, as chauffeur.

Q. Now, Mr. Bossom, on that night, did you have an occasion to go to Charles and Twenty-second Streets? A. Yes, sir; I did.

Q. At about what time did you go there? A. At about a quarter of or ten minutes of eight.

Q. And whom did you see at Charles and Twenty-second Streets, if anyone? A. Two young men.

Q. Have you since seen them and do you know who they are? A. Yes.

Q. Who are they? A. Mr. Keller and Mr. Socolow.

Q. By Mr. Keller and Mr. Socolow, you mean John Keller the man that just testified and Walter Socolow, the man that has already been convicted in this case? A. Yes, sir. They asked me if I knew where Mr. Wolf's residence was and I told them that I did and they asked me to drive them there.

Q. Where did you go? A. To Park Heights Avenue and Slade Avenue, I think it is.

Q. Who lives there? A. Mr. Harry B. Wolf.

Q. What did you do when you arrived there? A. I drove in there and stopped at the side door and then they got out and went up and rung the bell and a lady came to the door, and they asked if Mr. Wolf was in and she said, Step in. They walked into the end front room I think it was, and sat down, and then they stayed in there for possibly ten or fifteen minutes and then Mr. Wolf came in there. I don't know what he said to them. I could not hear that. But they then left that room and went across the corridor and went to the rear of the house and that is the last time I seen them until they came out.

Q. Now, at that time, Mr. Bossom, where was your taxicab with respect to the house? A. Why, my cab was under the alcove.

Q. Under the alcove? A. Yes, sir.

Q. Did anyone come out of the house shortly thereafter? A. I think that it was a lady that came out and went away in a touring car. I think it was a lady. I am not sure but I am pretty sure that it was a lady.

Q. Now, did you see any of the employees around Mr. Wolf's house at that time? A. Any of the employees?

Q. Yes? A. I believe Mr. Wolf's chauffeur was the only one that I saw, yes, sir.

Q. Now, shortly after they went into the house, did you see the lights lit in any of the rooms? A. Yes, sir. When they went in the lights lighted up in the room where they were sitting.

Q. Did any other portion of the house become lighted? A. No, sir; it did not.

Q. Now, did you keep your taxicab there under the alcove as you have described or did you move it? A. No, I had to move it when this lady came out to go away. Their car could not get by on account of my car sitting in the roadway and so I had to back back.

Q. How long was that after you arrived there that you backed your car back? A. I don't remember that.

Q. I mean, was it shortly or was it after some length of time? A. I can't exactly say but I would guess about a half hour or so.

Q. Now, when you backed it back where did you place your machine? A. Back on the left of the road going in. That would be the right coming out.

Q. Yes. Now, did any persons approach Mr. Wolf's house while you were there? Approach the house that were in your vision? A. Yes, sir; it was a big man that came there.

Q. A big man? A. Yes.

Q. Did he come on foot? A. No, he came in a little Ford Touring Car, I think.

Q. Do you know who that gentleman was? A. No, sir; I did not at that time.

Q. Do you know now? A. Yes, sir.

Q. Who was that? A. I read in the paper that it was Detective Hammersla I think.

Q. Now, what did Detective Hammersla do when he arrived at the house? A. He rang the bell and asked for Mr. Wolf and then he went over to the end of the porch and he sat in the swing and then Mr. Wolf immediately came out.

Q. Did Mr. Wolf say anything? A. He came out and shook hands and said, Hello, Robert—I think that was what he said,

Hello, Robert. And then they sat in the swing on the porch and talked.

Q. How long was Mr. Hammersla there? A. Well, it was some little time. I don't know exactly how long, to be correct, because I could not say because I did not have my watch, but he was there for a little time.

Q. About how long? A. I don't know. I should say a half hour, possibly longer, possibly less.

Q. Was it that long? A. I could not say Mr. O'Connor. Possibly longer and possibly it was not that long.

Q. Now, did anyone else approach the house while Mr. Hammersla was there? A. Yes, sir. They did. It was three men in a big touring car came up and they came up on the porch and they said—let's see, I think they said, Hello, Harry, or something like that, and Mr. Hammersla immediately left and then the three men and Mr. Wolf went into the house. They possibly staid in the house, well, I should say ten minutes, may be fifteen, may be not quite that long, and then they came out again and when they came out Mr. Wolf went back in the house and he was not in there but a minute or so when Mr. Socolow and Keller came out.

Q. What conversation, if any, did you have with Mr. Wolf throughout your visit there? A. Well, when these three men left Mr. Wolf came over to me and he said either, The boys or the young men will be right out and I said, All right, sir.

Q. Did they come out then? A. Yes, sir. They did, in possibly a minute or two.

Q. Where did you take them? A. I took them to Schroeder Street, right below Mulberry.

Q. Now, what time was it—You said it was about quarter of eight or ten minutes of eight that you got the call? A. Yes, sir.

Q. What time was it that you left Mr. Wolf's house? A. I should judge that it was around quarter of ten.

Q. And you then took them to Schroeder Street? A. Yes.

Q. And they discharged you at that point? A. Yes, sir.

CROSS-EXAMINATION.

Q. Mr. Bossom, what time did you leave Charles and Twenty-second Streets? A. Well, I could not tell you that but when I reached the garage I looked at the clock and it was between ten minutes or fifteen minutes of eight, possibly twelve minutes of eight, to be correct.

Q. About seven-forty-five or seven-fifty? A. Yes.

Q. Now, then, did you go direct to Mr. Wolf's house? A. No, sir. I went to Twenty-second and Charles Street, the southeast corner.

Q. Oh, you misunderstood me. I asked you what time did you leave at Twenty-second Street and Charles? A. Well, I guess that it took me about five minutes to get up there from the garage and that would be about ten minutes of eight, five minutes of eight.

Q. Now, then, after you left Twenty-second and Charles Streets, about seven-forty-five or seven-fifty-five, say, somewhere along in there, you went to Mr. Wolf's house, and that is some six or seven miles out, isn't it? A. Yes, sir; that is right.

Q. What route did you take? A. I cut over Twenty-second Street to Oak, I believe, and then down Oak to North Avenue, and out North Avenue to the Mount Royal entrance of the Park, and then through the Park straight out Park Heights Avenue.

Q. And you got to Mr. Wolf's house when? A. I should say that it took me at least twenty minutes to get there; possibly twenty-five minutes.

Q. So that would put you about eight-twenty when you arrived? A. Yes.

(By Mr. Leach): No; half-past eight.

(By Mr. Dennis): Well, it does not make a great deal of difference to us. Nobody can be exact, and it is not necessary in this case that he should be so. (To the witness) Now, then, what is your estimate, Mr. Bossom, because, after all, you are the witness as to the time that you got to Mr. Wolf's? A. Well, I don't know. I had no watch, but I should say that it took me twenty, possibly twenty-five, minutes to get there, and so you can judge about what time I got there—if it is fifteen minutes after eight, or maybe ten after, or maybe five after.

Q. Well, then, your two fares rang the doorbell and they were admitted? A. Yes; that is right.

Q. Now, did you have your lights on the automobile lit? A. No; we don't use headlights on the automobiles, but when they went in the interior of the house was not lighted up, but it was lighted after they got in there.

Q. Were the blinds up? A. Yes.

Q. Everything open? Windows open? A. I think they were open; yes, sir.

Q. Now, it was no trouble for anybody from the outside to see in; was it? A. Not if they wanted to look in.

Q. Not if they wanted to look in? A. No, sir.

Q. Now, you say that they had been there for about ten or fifteen minutes sitting there waiting, when Mr. Wolf came to meet them? A. Yes, sir.

Q. And he then took them to the back of the house? A. Yes, sir.

Q. And that is the last that you saw of the boys until they re-entered the cab and left? A. That's right.

Q. Now, then, how long after that was it that Mr. Hammersla got there in his little Ford? I think you told us, but let us make sure of it? A. I don't know how long, but it was some time.

Q. Well, how long was it after Mr. Hammersla arrived that Mr. Wolf went out on the porch to meet him? A. From the time that Mr. Hammersla arrived, I don't guess that it was over a minute.

Q. He went out immediately and saw Hammersla? A. Yes.

Q. And I think that you say that they sat in the swing on the porch and in your view all of the time? A. Yes, sir. That is right.

Q. Did Mr. Wolf go in the house at any time and leave Hammersla there at any time while you were waiting there? A. I don't think so.

Q. Did he have any phone calls that you know of? A. Yes. I heard at first, when they first went in there—Socolow and Keller—I heard the phone ringing, and I heard him say, Hello, and that was all. I don't know whether he went in a booth or not.

Q. And that is when they first went in there? A. Yes, sir.

Q. And he sat there talking with Hammersla continuously until the three men arrived in the big car? A. Yes.

Q. How long did those men stay there that came in that big car? A. They stayed possibly ten or fifteen minutes and they went inside.

Q. Did they have a chauffeur? A. No, sir; I didn't notice that. It was three of them, I think, and they went in the house with Mr. Wolf.

Q. Yes. Now, do you know at what time they left Mr. Wolf's? A. The three men?

Q. Yes. A. Indeed, I don't. I couldn't tell you that.

Q. And almost immediately after they left was when Mr. Wolf came out to you and told you that the two young men would be out there shortly? A. Yes.

Q. And, as a matter of fact, they did come out within a few minutes after these other three men had left? A. Yes, sir.

Q. When you came back what route did you take? A. I came back down Park Heights Avenue, and they at first told me, I think, it was Orleans Street and Patterson Park Avenue that they wanted to go. When we got to Monument and the Fallsway, one of them asked me—I think it was Socolow—how far it was to the 300 block Schroeder Street, and I told him I guess about a mile, and then he said, Well, suppose you drive me over there.

Q. So, after you got downtown they changed their directions as to where you were to land them? A. Yes, sir.

Q. Now, that is all, or, just a minute. Now, then as a matter of fact, Mr. Bossom, the whole time that your cab was standing there, waiting on Mr. Wolf's premises, was not over an hour or an hour and a half; was it? A. I don't think it was. Possibly an hour and forty minutes, but I could not tell you. I had no watch and I am just judging at this time.

(Question by Mr. Grason): Just one question, if your Honors please. (To the witness) Where were you when you were asked or where was your cab, rather, when you were asked to go to the 300 block Schroeder Street? Near what? A. Where was I?

Q. Yes. Where were you? A. I was at Monument Street and the Fallsway.

Q. Now, when you left Mr. Wolf's home with these men, did they give you any directions to go to any particular place with them? A. They did say go at first to Patterson Park Avenue and Orleans Street, I think it was; I should think that is correct. In East Baltimore, anyhow.

Q. Yes. To Patterson Park Avenue and Orleans Street? A. Yes, sir.

Q. So you were on your way then to Patterson Park Avenue and Orleans Street— A. Yes, sir.

Q. When this other direction came to you to go to Schroeder Street? A. Yes, sir.

Q. In other words, when you were at Monument Street and the Fallsway, they then told you to go over in West Baltimore to Schroeder Street? A. Yes, sir.

Q. That is right? A. That is right.

Thereupon DETECTIVE HARRY M. HAMMERSLA, a witness produced on behalf of the State, after being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. O'Connor): Your full name, please, to the Court? A. Harry M. Hammersla, member of the police department, lieutenant of detectives.

Q. Now, Detective Hammersla, do you know Harry B. Wolf? A. Very well.

Q. How long have you known him, sir? A. Oh, more than twenty years.

Q. What was the extent of your acquaintanceship or friendship? A. We have been very friendly.

Q. Very friendly. Now, do you know where Mr. Wolf lives, Mr. Hammersla? A. I do.

Q. You do. Have you ever been to his home? A. Yes, sir; on numerous occasions—I don't know how often.

Q. You don't know how often. Now, Mr. Hammersla, directing your attention to Wednesday night, August twenty-third, nineteen hundred and twenty-two, where were you? A. I went out to Mr. Wolf's home.

Q. Was that visit a surprise or did he more or less know you were coming? A. Why, I had met Mr. Wolf in the corridor of the Court House a day or two before, and I told him I was coming out to see him.

Q. Now, you did go out there about what time? A. I think it was about eight thirty, when I arrived there.

Q. Did you observe any vehicles at or near the house? A. Yes, sir; there was a taxicab sitting to the left of the road in the rear of the portico.

Q. In the rear of the portico. Now, did you go up on the porch of the house or remain at the entrance? A. I stopped my car under the portico, and I went up on the porch and rang the bell.

Q. In what make machine were you, sir? A. A Ford.

Q. And who did you see? A. A young lady came to the door whom I didn't know. I asked her if Mr. Wolf was in; she said Yes; who is it that wants to see him? I said, Detective Hammersla. She said, Well, will you take a seat a minute on the porch, and I will tell him to come out. So she went in and in a few minutes he came out.

Q. Now, on what porch were you at that time? A. I was on the north porch.

Q. On the north porch. That is the side— A. North side of the house towards Slade Avenue.

Q. And from where did Mr. Wolf come? A. He came out of the door on the north side of the house.

Q. What conversation did you have with him at that time; relate it to the Court in full, please? A. Well, Mr. Wolf greeted me in the usual way, and we had some little talk. He asked how my family was and I inquired about his; and, after some little conversation, I said, Well, Harry, what do you think of the latest development in the Norris case?

Q. And to what did you refer to at that time?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Go ahead. Just relate the whole conversation; just relate the whole conversation? A. Allers had confessed to the murder of Norris and had told the whole story; it was all published in the papers; and I said to him, What do you think of the latest development in the Norris case? He said, Harry, I am the worst fooled man in Baltimore. He said, No man could possibly have made me believe it was local boys that committed that crime; I didn't think they had nerve enough to do it. Well, I said, You are sure that they did it now, aren't you? He said, Yes, absolutely. I said, Harry, I think they have them right in this case. There is no question about it, absolutely. Well, I said, Every one of them ought to be hung. He said, Yes, every damn one of them ought to be hung. And I asked him then the question, Was he going to defend any of them. He said, No, I will not. He said, Harry, I don't have to do it; thank God, I don't need the money; I paid the last ten thousand dollars off on my home a month or two ago, and I don't have to do it and I am not going to do it; I will not have anything to do with the case. At that point he was called in to the telephone. He came out after talking over the phone—presumably he was talking—I didn't hear him, of course. He said, Harry, there is a couple of men coming, on their way out here to see me, in reference to some bootlegger that has been arrested; would you mind moving your car in the rear? I had it sitting right underneath the portico. I said, Certainly not. And I drove back right past the taxicab; I turned my car, headed it towards Park Heights Avenue. And when I came back again on the porch I resumed my conversation with him. I said, Harry—I always called him Harry—a great many people have spoken to me about being made captain of detectives; Captain McGovern, who was captain of detectives, has been ill for some time, and it is hardly supposed he will ever be able to resume his duties; he is said to have had a paralytic stroke. I said, I know how you feel towards me and I believe you would like to help me. He said, I certainly would. I said, Anything you might say for me now would do me more harm than good; I can say that to you without offense; I know that you are broad enough to understand

that if you, a criminal lawyer, were to recommend me for the position of captain of detectives, I never would get it, because Commissioner Gaither would not consider appointing anybody who was so close to a criminal lawyer—close enough that he would recommend him. Oh, he said, Harry, I know that; Commissioner Gaither has been very kind to me—very kind indeed. I said, I am satisfied of that. Now, I said, You may be able to help me indirectly. I said, If I could—should be successful in apprehending any of these men, that would do me more good than all the recommendations anybody could give me; now, this is a notorious case and one I should like to figure in. I told him, besides—I said, I am getting a little old—slowing up a little; I have been here twenty-five years. And I said, I feel that, by figuring in a case of this kind, it keeps you in the limelight and helps you along. He said, Harry, I have the kindest feelings in the world for you; anything in the world I can do for you, I will be glad to do it. He said, If there is anything I can do, I will call you up and let you know; I will let you hear from me. And just at that time an automobile drove up with two or three men—I am not sure which—they got out. He said, Harry, will you excuse me, please? I said, Certainly; and I went out and got in my car and drove off.

Q. Now, Mr. Hammersla, what, if anything, did you observe about his conduct and demeanor which was extraordinary, if anything? A. Well, Mr. Wolf seemed ill at ease; he was not himself, to me; in other words, I just sort of felt that I was not welcome, in a way; I don't know—I can hardly explain just how he did act, but he was not the same old Harry Wolf that he always was when I went there before.

Q. Now, what length of time were you there in all, Mr. Hammersla? A. Well, just as long as it took me to tell what I have told; and there was not anything else happened that detained me any longer.

CROSS-EXAMINATION.

Q. Mr. Hammersla, you stated it took you just as long as it took you to tell this. As a matter of fact, Mr. Wolf—Harry, as you call him and as I call him—went in the house and had a phone conversation? A. Yes, sir; he did.

Q. How many times? A. Only once, I think.

Q. And, in addition to that, you had to move your automobile? A. Well, of course, as I said before, I moved it; when he came out I moved the car around and then I came back on the porch and resumed my conversation. I don't think I was over there over twenty minutes altogether. It might have been a little bit longer or a little bit less.

Thereupon CAPTAIN JAMES M. LEVERTON, a witness produced on behalf of the State, after being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Poe): Captain Leverton, you have been on the police force how long? A. Thirty-four years.

Q. And how long have you been captain? A. Since the first of June.

Q. And you have known Mr. Wolf, of course, for some years, I take it? A. Many years.

Q. How many? A. I suppose, twenty-five or thirty years.

Q. Twenty-five or thirty years. Are you on intimate terms with him? A. Yes, sir.

Q. Now, do you remember receiving a telephone message from him shortly after the Norris murder? A. Yes, sir.

Q. When was it? A. The first message I received from Mr. Wolf was on August nineteenth, at about nine o'clock, I judge.

Q. Saturday, right after the murder? A. That was on a Saturday; yes, sir. Mr. Wolf asked me if I could come out to his house. I said, Yes; what is the trouble? He said, I have some information for you. I said, All right, sir; I will come out. I was waiting at the time to go back to the station, which is the custom—to go back to the station on Saturday night. I telephoned to the station for to bring the automobile of the Police Department, with the chauffeur, to my home, at eight hundred and twenty-six North Patterson Park Avenue.

He came to my house, and I got in the machine. And a man by the name of Fisher, Harry Fisher, was the chauffeur. I got in the automobile and we drove out towards Mr. Wolf's home. The first stop at the corner of Charles Street—

Q. That is not material. A. Anyhow, we continued on out to Mr. Wolf's home.

Q. What time was it; do you remember? A. I judge it was about nine o'clock.

Q. Saturday night? A. Yes, sir; it was Saturday night. I got out to Mr. Wolf's home and rang the bell. He came to the door—Mr. Wolf came to the door, and I said, Do you want to see me? He said, Yes. I said, What is the trouble? He said, I have some information for you in the Norris case. Well, I said, tell me what it is. He took me into the room, the sun parlor, and we sat there and talked. He told me that there was a crowd of men, six or seven in number, that had been down to the Winton Hotel on the past Thursday night, and remained over until Friday, and he gave me the names of several of them. One was named—he gave as Doc Corbin; another by the name of Levine, and another by the name of Quickly or Quigly, and several others—said they came to the Winton Hotel and that they had high-powered cars, and they were acting suspiciously for men of their character, as he understood—likely to do such a crime. And he said that he had heard that they were out-of-town men. But, he said, I would rather for you to get this from somebody else; I refer you to Henry Bletzer or Francis McLaughlin. He said, If you will go to them, they will give the entire story. I said, All right. I got back in the machine with the chauffeur and we drove down to Bletzer's hotel, the Winton Hotel.

Q. I don't care any more about that. Now, did you report that to General Gaither? Did Mr. Wolf tell you he had made that report to General Gaither on Friday? A. No, sir; he did not.

Q. He did not tell you that? A. No, sir.

Q. Did you report it to General Gaither? A. No, sir. The next morning Inspector Hurley was at the Southern Police Station, after I had run this matter out, saw McLaughlin, and

came to the conclusion that these men were not implicated in the affair, because they did not answer the descriptions.

Q. Now, you did not report that to General Gaither; did you? A. Well, I reported that to Inspector Hurley the next morning at the Southern Police Station.

Q. All right. Now, let's get to the Wednesday night, the twenty-third? A. That was the twenty-third of August, nineteen hundred and twenty-two.

Q. On August twenty-third? A. About ten o'clock some time, I judge, between ten and half-past ten o'clock, I received a telephone call at my home, and Mr. Wolf—

Q. (The Court): In the evening?

A. At night, P. M. And Mr. Wolf asked me to come down to his office the next morning, to be there about nine o'clock. He said, I have some information for you in the Norris case.

Q. Yes. A. All right, sir, I said; I will be there. He said, Come in civilian dress. I came down the next morning in civilian dress. I went in the office of Mr. Wolf, and he was out. I inquired from the telephone man where Mr. Wolf was, and he said, I think he has gone to the Southern Police Station; he has a case there to try. Well, I said, I have an appointment here with him; suppose you call up the Southern; suppose you call up the Southern and tell him I am here. He said, All right; he would. I am a little ahead of my story. I first went over to the police station, the Southern Police Station and called the roll. I was in civilian dress. Then I came down to Mr. Wolf's office in civilian dress, and I went into Mr. Wolf's office. And that is when I spoke to him and asked him to call back to the station and tell Mr. Wolf I was there.

Q. He finally came? A. Mr. Wolf finally came.

Q. Tell what happened when he came? A. Mr. Wolf came to the office. In the meantime, while I was standing waiting for Mr. Wolf, Commissioner Gaither drove by in an automobile—while I was on the pavement waiting for Mr. Wolf. Mr. Wolf came down and I went in the office with him. He said, I have got some information for you. I said, What is it? He

said, I have got a boy here, and he can tell you where some of the goods in the Norris case were disposed of. I said, Yes—who is the boy? And he said, first, I want you to understand that this boy's—that there is a cloud hanging over this boy; he is wanted for stealing or for driving off an automobile unauthorized, belonging to a man by the name of Sapperstein; now, I represent him, or, He is my client—I forget just which he did say—and this boy can tell you all he knows, or, will tell you something about this case. With that he called the boy; he called the boy up to me and he said, Now, Captain Leverton, this is John Keller. He said, This is Captain Leverton, Johnny. I said, What is your name, son? He said, John Keller. Where do you live? He said, Twenty hundred and thirty-six Gough Street. I said, Well, what is it you are going to tell me? Mr. Wolf said, Go ahead with him, Captain Leverton, he says, and take him and he will tell you what he knows. Then Mr. Wolf said, Have you an automobile? I said, No, I have not one here, but I will go around to the police department, and I will call one. Just then a man stopped in the door by the name of Friedman, and he said—whether he came out of the office or whether he came from the outside, I don't know—but anyhow he said, Friedman, have you got your automobile? He said, Yes. He said, Will you take the captain on an errand? He said, Yes, sir; I will take the captain anywhere. He said, Well—

Q. How did you come up from the Southern Police Station?

A. I came in an automobile of the Police Department.

Q. Where was that after you left? A. That was standing at the side of Courtland Street, and I waited a considerable time.

Q. You had left it there when you went to Mr. Wolf's office?

A. Yes, sir.

Q. Had you dismissed it? A. Yes, sir. I came back after waiting for Mr. Wolf for quite a length of time, and I thought we may want to use it at the Southern Police Station. And for that reason I sent the chauffeur back.

Q. Now, when did you dismiss it—after Mr. Wolf came or before Mr. Wolf came? A. Oh, no—before Mr. Wolf came.

Q. All right. Go ahead? A. So Friedman, Keller and myself, went out of Mr. Wolf's office and went down to Calvert and Lexington Streets and got in the automobile of Friedman. After getting in the machine I began talking to the boy.

Q. Yes? A. And I asked him what he was going to tell me—where we were to go. He said, I will direct you. He said, It is down towards Highlandtown. I asked him who told him or how he knew about this stuff and what he was going to tell me—what is your story? The story he told me was this:

(Objected to.)

(Witness, continuing): The story the boy told me was this—

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Go ahead, Captain Leverton; just continue? A. He said that on the Sunday night after the murder of Norris, he was standing at the corner of Baltimore Street and Broadway when two men came along and asked him if he wanted to earn a few dollars. He said, Yes. They started off. They said, Well, come and go with us. They started off and walked as far as Broadway and Fayette Streets, and got on the Back River car. They went out to Highland Avenue on the car, got off and walked down to a garage on Highland Avenue, number eighty-eight, and one of the men gave him a key and told him to open

this garage. They said, We will look out for you; we will stand over here in the weeds and watch for you and see that no harm comes to you; the boy taken the key; he says he taken the key and unlocked the garage; after he had unlocked the garage, these two men came up to him, and he was about to go in the garage and they said, No, you stay here and we will go in; they went in the garage and they came out with a box and a flat package, which looked like tags, and a sack of money. They said to him, You take this money and carry it and go ahead with it and we will carry this box and tags. I said, Well, did you know who these men were; did you ever see them before? And he said, No, sir. I said, Do you know their names? No, sir. Could you tell me what they were talking about? He said, No, sir; the only thing I do know, one of them called the other Chicago, and Chicago called the other man Boston. He said, We continued on up, turned back into Highland Avenue and walked up as far as a pond of water about three or four hundred feet, north of the Philadelphia Road; when we got there one of the men said, Here is a good place; and walked down towards the pond of water; one of them taken the box and threw it in the water, and the other one tossed the tags. This is a tremendous space of water, taking in possibly an acre of ground. He said, Then we left the pond; they threatened me, if I revealed anything that they had told me, that they would do me harm; we continued then to McElderry Street, McElderry Street to Patterson Park Avenue, and Patterson Park Avenue under the bridge near Eager Street—the bridge that spans Patterson Park Avenue—and when we got there, some of the money rolled out of the sack; and, he said, he stopped to pick it up; they told him, No; that is all right; let that go; come on; they walked up then as far as Patterson Park Avenue and Preston Street; they taken the sack of money from him and gave him twenty-five dollars, a twenty dollar bill and a five dollar piece, and told him, Now, go ahead, and don't you say anything about this matter; if you do, we will croak you, and, if we don't do it, some of our friends will; so we continued on out, and when we got out—

Q. Let me interrupt you right there. Did he say whether or not the packages were wrapped up? A. Yes, sir.

Q. What did he say about that? A. He said that the box was wrapped up, the box, and so were the tags; but, he said, It looked like a metal box; when they held it in their hand, it looked like a metal box.

Q. How many packages did he say there were? A. Three, that is, the box, the tags and the sack of money.

Q. All right. Go ahead? A. Now, he said further, I took them to this pond; after we went in the garage—he showed me where the garage was; and we went in the garage; there was nothing in there—no indication that there ever had been; we came away from there and went up to this pond; when we got to the pond, he pointed out—he said, Here is the place the man called Chicago threw the box, and the other man tossed the tags off here to one side.

Q. Did he say tags and box? A. He said, box and tags. That is his language. And I said, Well, if they are in there, we ought to be able to find them; suppose you take your shoes off and wade in there and see if you can locate them.

Q. How deep was the water? A. Well, I suppose it was up to his waist in some parts of it. Of course it was shallow, right close to the shore. So he takes his shoes off and went in and tried apparently to find what he claimed was thrown in there. After a little while I said to him, Come out, son, and take all your clothes off and go in and let's see if we cannot find them. So he went in again, striped of all of his clothing, waded around there and was unable to find anything. I came to the conclusion he was either trying to fool us or he was lying. I said, Come on, son; come out of there—or else he was frightened, walking in the water; it was then nearly up to his armpits in some places. I called him out of the water; I said, Get your clothes on. He put his clothes on, and we got back in the same automobile and drove back to Mr. Wolf's home or Mr. Wolf's office.

Q. Now, right there let me ask you a question. Did you ask him how he happened to suspect that those were the tags or the box connected with the Norris case? A. Yes—he said—no, no.

Q. You did not ask him that? A. No, sir; I did not.

Q. What explanation did he give they were wrapped up when he saw them thrown in? A. He said this box, when he got it in his hand, made a noise in such a way that he thought it was a metal box, and the other package was a long package and he thought it was tags.

Q. Did you ask him why he thought these two packages were connected in any way with the Norris murder? A. No, sir.

Q. You did not ask him that? A. No, sir.

Q. Did he give you any information as to why he thought they were connected with the Norris murder? A. No, sir; he did not. He said this, he said the box was wrapped up—

Q. You did not ask him that and he did not explain it? A. No, sir.

Q. And nobody had explained it to you up to that time? A. No, sir.

Q. Now, go ahead? A. I brought him back to Mr. Wolf's office.

Q. Mr. Wolf was there, was he? A. Mr. Wolf was there when I came back. I said, This boy has not shown me anything; he has not told me anything; he has given me a rambling story, and he has not told me anything; but, I said, I am going back. Mr. Wolf said, Didn't he show you where the money box and tags were thrown?

Q. Mr. Wolf asked you that? A. Yes, sir. I said, No; he told me where these packages were thrown, but he has not shown me anything else.

Q. Now, wait: right there; did you report to Mr. Wolf the story he told you? A. No, sir; I didn't.

Q. Did you report to him about Chicago and Boston? A. No, sir; I don't think I did.

Q. Think about it? A. I don't think I told him that.

Q. Did you or not? A. I may possibly have said something about Chicago. I told him he told me a rambling story.

Q. Did you or not report the story to Mr. Wolf about Chicago and Boston? A. I may possibly have told him.

Q. Were you indignant on being taken on a wild goose chase? A. I didn't feel very pleasant about it.

Q. When you reported to Mr. Wolf about this wild goose chase, was Mr. Wolf indignant with the boy and rake him over the coals? A. No, sir; he did not.

Q. What did he say? A. He didn't give him much chance to say anything.

Q. He did not give Mr. Wolf much chance; why didn't he? A. Because I was going around to get help; drain that pond and find out what was in there.

Q. But Mr. Wolf didn't show any indignation at the boy's putting up a fake story on you? A. No, sir. Mr. Wolf seemed to be surprised.

Q. What did he say to the boy? A. I don't know that he said anything to the boy.

Q. Didn't say anything to the boy? A. I don't think he did.

Q. Now, then, what did you do? A. I went from there around to General Gaither's office.

Q. Yes. A. And I explained to him that I had a boy.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Now, you took the boy back to Mr. Wolf's office; did you?
A. Yes, sir.

Q. Why did you take him back to Mr. Wolf's office? A. I took him back to Mr. Wolf's office, because Mr. Wolf had given me the first information, and I expected that he could give me more.

Q. Did you ask him for more? A. I certainly did. He said, This boy can tell you all about this case if he wants to tell.

Q. Mr. Wolf told you that? A. Yes, sir.

Q. He can? A. Yes, sir.

Q. What did you say then? A. I said, All right; I will go around and get help.

Q. Did you ask him what more information he knew that the boy had you had not gotten? A. Yes, sir.

Q. You said you brought the boy back to Mr. Wolf's office?
A. Yes, sir.

Q. Why did you do it? A. I just told you, because I thought Mr. Wolf could get more information from him, being he had him firsthand, than I could; and then I wanted—I wanted to see the men around at Headquarters and get help and take the boy in with me.

Q. One minute. Did Mr. Wolf or not tell you before you took the boy off in the morning, to bring him back to his office?
A. Yes, sir.

Q. Was that the reason you brought him back? A. That was partly the reason, certainly.

Q. Go ahead. A. I went around to General Gaither's office and I told him I had a boy that had told me about—

(Objected to.)

Q. Don't tell us what you said to General Gaither. When did you next come back to Mr. Wolf's office? A. I then got in

touch through General Gaither with Captain Burns, Captain of Detectives, and he in turn with Inspector Lurz. I told Captain Burns—

Q. Never mind what you told Captain Burns. They have objected to it. Come back to Mr. Wolf's office.

(Judge Gorter): All right; we rule it out; we sustain the objection.

Q. (Mr. Poe): Now, Captain Leverton, come back to Mr. Wolf's office. How long were you away before you came back to Mr. Wolf's office, and with whom did you come back? A. I came back with Inspector Lurz.

Q. How long had you been away? A. We had to go down to the pond. From the time I left Mr. Wolf's office I went around to Headquarters, and then from there I got assistance, and went down to the pond, and by getting help—

Q. When you came back to Mr. Wolf's office the second time to get the boy, did the boy go with you the second time or not?
A. Yes; certainly.

Q. You have not said it yet? A. I was trying to tell it to you.

Q. You have gotten to the pond. I want to get you to Mr. Wolf's office. A. I went back to the pond a second time.

Q. Did you go to Mr. Wolf's office before you went to the pond the second time? A. Yes, sir; and got the boy.

Q. Did you see Mr. Wolf when you came back the second time? A. Yes, sir.

Q. What report did you make to Mr. Wolf? A. I told Mr. Wolf, as I told you a few moments ago, that this boy had not told me anything—gave me a rambling story—and I was going back to the pond; he did not find anything for me, and I was going to get help—going back to General Gaither's office and get help and go down and drain that pond, if it became necessary.

Q. What did Mr. Wolf say? A. He said, All right; go ahead.

Q. And then you went off with the boy, did you? A. Yes, sir.

Q. And then what happened? A. I taken the boy then around to Headquarters, and met Inspector Lurz with an automobile. We put the boy in the machine.

Q. Did Lurz go with you to Mr. Wolf's office? A. No, sir.

Q. Why didn't you take Lurz to Mr. Wolf's offices? A. It was not necessary.

Q. Why was it not necessary? A. Because it didn't require two of us to go after him.

Q. You made a report to General Gaither? A. I spoke to General Gaither.

Q. Well, you made a report to Captain Burns, your superior officer, but you had not— A. Captain Burns is not my superior—

(Objected to, on the ground that the State was impeaching its own witness.)

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SIXTY-NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Now, why didn't you report to General Gaither, your superior officer, and to Captain Burns, your superior officer, what you had been doing and where you had gotten the boy?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Sixty-ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Why didn't you? A. Why didn't I do what?

Q. Why didn't you report to—why didn't you report to any of your superiors, knowing Mr. Wolf had given you this information—

(Objected to.)

A. It was like every other man in the police department; it was a big case; it was something we were all trying to get credit for. I had gotten this information and I was withholding it, and I felt I was police enough to carry it out and get results without calling anybody to my assistance.

Q. Were you or not withholding Mr. Wolf's name at the request of Mr. Wolf?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign

this his Seventieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTY-FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Not particularly so, no, sir; but I knew that Mr. Wolf was a lawyer, and I knew that it would not help him a bit in the world to let it be known he gave me information, and I was trying the best I could to protect him as my informer.

(Mr. Poe): Now go ahead and tell us about this second trip to the pond?

A. Well, when we went to the pond, the second time to the pond, Inspector Lurz and myself, we got there and Inspector Lurz, John Keller and myself, we stood there and he told Inspector Lurz as well as myself where this stuff was thrown. We stopped and got two or three laborers, colored men, that were employed with the Sewerage Commission, I think, close by. We brought them over there to wade the pond. They waded around for a while and finally one of them found a box, a metallic box. He taken that out, and when he taken it out he set it on shore. It was empty. Now that box was just about in the same place where this boy had been tramping around. Then we thought we would try and see if we could get the tags, so we searched about for quite awhile. Finally the foreman of these men taken the colored men away from us. By that time there was quite a crowd had gathered about the place—men, women and children—and there was a lady there volunteered to loan a bathing suit to anyone of the young men that would go in and search for the tags or to search the water to help us to find them. This man went off and went to the home of this lady and got on the bathing suit and he came back and he went in and waded around the water and after the lapse of possibly half an hour or possibly longer, I just don't know ex-

actly what the length of time was—he got the tags. But in the meanwhile, when we had got the box, Inspector Lurz said to me, suppose you go up and telephone to Commissioner Gaither that we have found the cash box. I went then to Philadelphia Road near Highland Avenue, at a confectionery store, and called up General Gaither and told him that we had found the cash box. He said that is fine, or words to that effect.

Q. When you found the cash box was it wrapped up in newspapers or not? A. No, sir.

Q. When the tags were found, were they wrapped up in newspapers or not? A. No, sir.

Q. When you found the cash box and the tags were there any photographers around? A. Yes, sir. There were quite a number of newspaper men had followed us down there I suppose.

Q. How about photographers, were they there? A. They were there, yes. But I think the photographers were the newspaper men.

Q. There were no reporters there, were there? A. Yes, sir.

Q. Reporters too? A. Yes, sir.

Q. And newspaper men? A. Yes, sir.

Q. How they got there you of course do not know? A. No, sir.

Q. You did not tell them you were going did you? A. No, sir; I didn't say anything to them at all.

Q. Now, go ahead. Tell us what you did after you found the box and tags? A. We put the boy back—

Q. In the first place, is this (indicating) the tag and is that (indicating) the box? A. Yes, sir.

Q. Only found one tag? A. Yes, sir. We put the boy back in our automobile and drove back to Norris' at Park Avenue and Madison Street.

Q. On the way back did you question the boy any further?
 A. No, sir, I didn't say anything to him, and Inspector Lurz said nothing to him. We went back and we showed the box to the firm—a man by the name of Ensor I think was one of them; one by the name of Hicks and one by the name of McCarthy, I think that was his name; but anyhow they identified the box as the box that was used in the paying off of the men, or used in the payroll.

Q. Yes? A. So we then, after standing there and talking with those men in the office for awhile, we got back into the machine and we came back, Inspector Lurz, the boy and myself, and we drove down past Mr.—

Q. First, did you say something about going to the manufacturer of the box? A. Yes, sir; we went to the manufacturer of the box on Howard Street, to see if he could identify that box as the kind of box he made, or if he could identify that as the one that he did make.

Q. The Keller boy was with you all the time? A. Yes; he was in the machine, and Inspector Lurz and I went into this place. He could not identify it; he said there have been so many kinds of boxes made there, and we got one of the mechanics to come down and look at it and they weren't certain whether it was made there or not. So we came from there and came down Lexington Street, and as we were going by Mr. Wolf's office I said to Inspector Lurz, I promised to bring this boy back to Mr. Wolf. Do you mind letting him out. He said, No, that is all right. And he opened the door and the boy stepped out and went into Mr. Wolf's office. I said, I can get him. So we came around.

Q. Are you sure you mentioned Mr. Wolf's name to Lurz at that time? A. Yes. I pointed the place right out to him and let him out to go into Mr. Wolf's office.

Q. Are you sure that you told him at that time you promised to bring him back? A. Yes, sir.

Q. I am only asking you? A. Yes, sir.

Q. Do you recall later on in the afternoon the boy making a statement in the presence of police officers as to where you and he had met? A. Where he and I had met?

Q. Yes? A. He said we had met in Mr. Wolf's office.

Q. Sure of that, are you? A. Why, certainly.

Q. You do not remember the boy saying in your presence—
 A. Oh, no. I will take that back, I will take that back.

Q. Yes; go ahead? A. The boy said that he met me standing in front of the Court House.

Q. Did you contradict that statement? A. Yes, sir.

(Witness): Mr. O'Connor was standing there at the time, and I turned to Mr. O'Connor and I said, Mr. O'Connor, that boy did not meet me in front of the Court House; he met me at Mr. Wolf's office. Mr. O'Connor can tell you whether that is so or not.

(Mr. O'Connor): That was at the Central Police Station, wasn't it?

A. Yes, sir.

(Mr. Poe): Did you get out with the boy then and go in with him to Mr. Wolf's office? A. How is that?

Q. Did you get out of the car at that time? A. No, sir; I did not.

Q. Didn't the boy get out of the car? A. The boy got out of the car and went into Mr. Wolf's office.

Q. And you and Inspector Lurz stayed in the car? A. Yes, sir.

Q. What time was that? A. I don't know but I judge it must have been about three o'clock I guess or close on to it. Possibly not so late. I am not so positive about the time.

Q. Do you think it was as late as three? A. Well, it might have been because it was noontime when we went down to the pond but I am not just positive as to the exact time.

Q. Then you went to headquarters, did you? A. Yes, sir.

Q. Up to that time had you asked the boy whether he could identify "Chicago" or "Boston"? A. Yes, sir. I asked him in the course of conversation if he could identify these men, and he said that he could.

Q. Now, go ahead. You went then to headquarters, did you?
A. Yes, sir.

Q. And then what happened after that? A. I went down to headquarters with the box and the tag, Inspector Lurz and myself, and when we got in there I told all of them what we had done, we stood there and talked for quite awhile.

Q. Whom did you see, to whom did you report? A. To Captain Burns. I do not know whether any of the rest of them were there or not, but then there was quite a number of men and we talked over matters of some kind, but I had to wait for a little while for Captain Burns before he came; he was upstairs or somewhere about the building; was not there just at that time; and when he came I told him just what had been done, and I showed him the tags—showed him the tag.

Q. You are talking about Captain Burns now? A. Yes, sir. So, after while he said, Do you think that this boy could identify any of these men? I said, He says he can. He said, Well, can you get the boy? I said, Oh, yes; I can get him. He said, Well, suppose you get him. I said, All right. I came around to Mr. Wolf's office again. The boy was standing on the pavement. I walked up to him and I asked him if Mr. Wolf was about. He said, No; he thought he had gone to one of the station houses. I said, Have you had anything to eat? He said, Mr. Wolf gave me fifty or seventy-five cents—I don't just know what the amount was—to get something to eat. I waited then. After promising Mr. Wolf, for the information that he had given me, I did not feel that I wanted to take him away in his absence. I waited for a reasonable length of time, and finally Mr. Wolf came down, and when Mr. Wolf came down the street we stepped into his office. The boy in the meantime, though, I said, You better wait for him inside. After a few minutes, or quite a length of time, I went into Mr. Wolf's office, and the boy was there; and I said, Harry, this boy tells me that he can identify the men that he called "Chicago" and "Boston." And he said, Can you do it?—Can he do it? or Can you do it? He said, Yes. I said, And I am

going to take him to Headquarters. He said, That is all right. He said to the boy, Go ahead with him, Johnny, and tell the Captain the truth. I taken the boy back to Headquarters and we began to question him—that is, I turned him over to Captain Burns. When we got to Captain Burns' office I said, Captain, here is your boy. I said, First, I want you to know this before you begin to question him; I want you to know who he is; his name is John Keller, and I understand he is wanted for stealing an automobile or driving one off unauthorized; now, I want you to know who he is. I left him with him.

Q. You testified a little while ago, I think, that you told Mr. Wolf you would look after the boy about this charge? A. I done what?

Q. Mr. Wolf asked you to look after this boy about this charge; didn't he? A. Yes, sir. So they began to question him and I stepped out. I left Captain Burns with the boy taking down his report. I stepped out in the other room, and was talking to several men there about getting the boy, and in a few moments I came back in to see what progress they had made with the boy. When I got back into the room Captain Burns had some photographs there. He looked all over these photographs—no. He called in—first, he had several of the men—I think, Smith and Carey and Novak and Lewis, if I remember right—anyhow, there were three or four of them there—and we called one in, at least he did, one in at a time, and asked him if he knew this one, that one, and so on; and he failed to identify any of them; he said he did not know any of them. So then Captain Burns brought out some photographs he had there of some of the men, and he asked him if he knew any of those men.

Q. What men? Whose photographs did he show? A. I think it was Smith and Allers.

Q. You mean "Wiggles" Smith? A. "Wiggles" Smith.

Q. Socolow? A. Socolow. Anyhow, there were five or six photographs.

Q. What did he say when he looked at Socolow's picture?
A. He looked over them, and didn't know any of them.

Q. Didn't know any of them? A. Failed to recognize any of them until he saw Allers' picture, and he said, That is the man called "Chicago"; that looks like the man. So Captain Burns smiled over it, and said, It can't be him.

(Mr. Leach): Never mind about what Burns said.

(Witness): Well, I knew it could not be him; I knew it could not be Allers.

(Mr. Poe): What did you do then? A. We taken the boy then, and meantime in came Inspector Hurley, and Captain Burns said, Take him over to see those men at Headquarters. And Captain Hurley said, Well, I will go over. So we went out, Captain Hurley going ahead—well, the three of us near about together—so we walked around and got into his machine on Lexington Street near Calvert and put the boy in with us. We put the boy in the machine with us. We drove around to the Central Police Station and we taken the boy upstairs. In one room Allers was, and in the other room we put the boy, John Keller; he sat in that room. Mr. O'Connor or Allers was then looking over the statement that he had made. I believe it was his confession; in fact, I know it was. And a notary public was there at the time and administered the oath to Allers, and Mr. O'Connor signed the statement—Inspector Hurley did and Mr. O'Connor and myself, we signed his statement. In the meantime we called the boy. I don't know whether Inspector Hurley called him or whether I did. We called the boy out of this room over in to look at Allers. One or the other of us asked him if he knew him. He looked at him for a moment or two and finally he said, Yes; I know him. He said, That is the one called "Chicago"; that is the man gave me twenty-five dollars. I then said to the boy, Are you sure, boy, that this is the man? Be careful what you are saying; this is a serious matter. He said, Yes; I know him; that is him; that is "Chicago." Allers then said, Why this is a frame-up. Inspector Hurley grasped it at once, and said, Why, this is a job. He said, This is a job; this boy ain't telling the truth. And he turned to me then. Mr. O'Connor then meantime had been talking to the boy, and Inspector Hurley said to me—

(Mr. Leach): When was this?

(Mr. Poe): This was at the Station House?

A. This was at the Station House, and Inspector Hurley said to me, did Mr. O'Connor say anything to you about this boy telling him about a frameup against—

Q. When was this, before he had seen and identified Allers, or afterwards? A. That was after he had identified Allers.

Q. After he had identified Allers? A. I think it was. Now I won't be certain.

Q. You are not sure about that? A. No, I am not certain whether it was before or after. I think that Mr. O'Connor had been talking to the boy before we taken him in to identify Allers. I think that part is right.

Q. What had the boy said to Mr. O'Connor before you had taken him in to see Allers? A. He did not say anything to me then, but he was telling him, telling Mr. O'Connor, about this time, and Inspector Hurley asked me if this boy had said anything to me about this being a put-up job.

Q. What did you say? A. I said no. I went back to the boy—

Q. Go ahead? A. I went back to the boy. I said to him, Look here, Johnny, or boy, whatever it was I called him, what is this yarn you are talking about, what is this put-up job you are saying.

Q. What were you referring to? A. Well, wait until I tell you. I said, What is this job you are talking about, this Harr and Socolow frame-up job—I can't answer while he is—

(The Court): Just wait until they get ready for you.

(Mr. Poe): Go ahead, Captain. What yarn were you talking about?

A. I asked the boy, I said, What is this story you are telling about this frameup.

Q. Well, what had you heard, what story had you heard? A. Inspector Hurley, I told you a moment ago, came to me and asked me if Mr. O'Connor had said anything to me about the

boy's story about the frameup, that this boy told him. I said no, he never told me. Then I went back to this boy and said, how is it you haven't said something to me about this frameup. He said well, you didn't ask me. Well, I said, is that the only reason. He said yes, you did not ask me and for that reason I did not tell you.

Q. Did that take place before or after you took him in to see Allers? A. I think it taken place after. That taken place after.

Q. Now what was the story that you speak of as the frameup that Hurley reported to you and you asked the boy about? A. The story was this, as near as I can remember, that instead of this being—he had overheard this conversation between "Chicago" and "Boston," that now is the time to frame Socolow, Smith and some others—I forget just which it was.

Q. That is the frameup that you had reference to? A. Yes, sir.

Q. The boy had never told you about? A. Never said a word to me.

Q. But which he had reported to Mr. O'Connor and Inspector Hurley? A. Yes, sir.

Q. Then Hurley asked you if you had heard anything like that from the boy, and you said you had not, and went back and asked the boy why he had not told you about it? A. That's it exactly.

Q. And he said because you had not asked him? A. That's it.

Q. And you think that took place after the boy had been taken in and confronted with Allers and had identified Allers as "Chicago"? A. Yes, sir.

Q. Although you say you are not so positive? A. I am not so positive.

Q. After that where was the boy taken? A. Down to the Detective Department again. After getting him there they

began to question him again and Detective-Sergeant Warthen came in, while we were talking to him, and I think Parr and Murphy. Well, one or the other asked him if he knew where 909 Broadway was? He said no. Well, do you know anybody lives over there. He said, no. Captain Burns said, well, there is only one way to find out; suppose you take him over there. So we go out into the machine—Warthen, Parr, the boy and myself—and we got over to 909 Broadway and Warthen gets out of the car, rings the bell, and a lady came to the door. He stood and talked with her for quite awhile. It was a rainy night and the automobile was closed and she could not see who the occupants was in the car. I got out of the car and walked over to her. I said, Madam, do you know a boy by the name of John Keller. She said please don't get me into any more trouble; I am in trouble enough now. I said, yes, but this is important, I want to know. She said yes, I know him. I said bring that boy out of the automobile. They taken the boy out of the automobile and brought him to the door and I said, do you know this lady, speaking to Johnny? He said, No, sir. Did you ever see her before? He said, No, sir. I said, are you sure of that? He said, Yes, sir. When were you ever over here before? He said, I never was here before in my life. Are you positive of that? He said, Yes. I turned to the lady—he stepped down off the steps and I turned to the lady and I asked her name, and she said her name was Virgie Williams. I said, do you know this boy? She said, Yes, that is John Keller. I said, when was he over here before? She said, last Saturday night. What was he doing in here? He was in here playing cards. When was he ever here before? She said, he was over here on numerous occasions. Who was he with? The very men that you are looking for at the present time. We put him in the machine. I said boy, you have not told us the truth, and if you do not tell us the truth you aint going home. He said, well, take me back where you got me from and I will tell you the truth, and we brought him back to Headquarters and that is when he did tell another story.

Q. Now then, you brought him back to Headquarters, and then he was taken where? A. Brought him back to Headquarters and they began to question him in there and that is when he told the whole story about it being a put-up job. He said, that Allers was not "Chicago," that it was a put-up job; and then he went up to the State's Attorney's office. They started with him I think downstairs and then Mr. Leach and Mr.

O'Connor got to questioning him upstairs and they got his whole story from him.

(Mr. Poe): Witness with you.

CROSS-EXAMINATION.

Q. (By Mr. Dennis): Now then, Captain, when Mr. Wolf called you up that Wednesday night, after Socolow and Keller had left his home, didn't he tell you to be at the office, that he might have some important information for you the next day? A. Yes, sir.

Q. Did he say that it was in connection with the Norris case or generally? A. Yes, sir.

Q. Now, then, what time did you get to Mr. Wolf's office the next morning? A. The next morning I got there I judge about quarter of nine or ten minutes of nine.

Q. And you had to wait for Mr. Wolf how long? A. I waited for Mr. Wolf until possibly half past nine.

Q. Now, then, when Mr. Wolf came to his office isn't it a fact that you were out on the sidewalk and he had to send outside for you? A. When Mr. Wolf came back—I saw Mr. Wolf just about going in the door, as I thought it was him—and his telephone man, Dan—I believe this is the boy here (indicating)—yes, that is the boy—I had been in and out, looking for Mr. Wolf, been in and out and getting tired of waiting for him, when this boy came out and said Mr. Wolf is here. I was on my way to come in then.

Q. And when you got in the office the last time, that is, after Mr. Wolf arrived, Mr. Wolf was already there? A. Yes, sir.

Q. And for a minute or two before you got in there, isn't that a fact? A. Yes; not more than a minute or two, it couldn't have been.

Q. When you got in he had this boy Keller right with him, didn't he?

(Mr. Wolf): Right in the big room.

A. It is a large room there and the boy had stood off to one side, alone. I hadn't even noticed the boy.

Q. Didn't know him from Adam? A. No; never saw him before in my life; and sorry I ever did see him.

Q. (Mr. Dennis): Mr. Wolf called the boy over to him, and in your presence, and told you that the boy was wanted on an automobile charge? A. Yes.

Q. And he told you that he could tell you something about the Norris case, didn't he?

(Mr. Poe): No sense in rehearsing what he has already said. I object to his rehearsing in his own way what the witness has said.

Q. (Mr. Dennis): Let us get back. When Dan went for you to tell you Mr. Wolf was there, Mr. Wolf was then in his big room, in his own office, wasn't he? A. When I got in there Mr. Wolf was standing in the room.

Q. He was standing in the room? A. In the large room, yes, sir.

Q. And there were a number of people around there, weren't there? A. There were some few. I just did not notice just who was there.

Q. And Dan was there? A. Yes.

Q. Did you notice whether Mr. Stevenson was there? A. I am not positive, I would not like to say that.

Q. Mr. Wolf called the boy over and told you his name? A. Yes, sir.

Q. And that he was wanted for stealing an automobile, or on an automobile charge? A. Yes, sir.

Q. And he told you that he could tell you something about the Norris case, where the stuff was or something of that sort? A. Yes.

Q. And he left you to develop the case, didn't he? A. Yes.

Q. And did he make any further suggestion to you as to having the boy identify anyone? A. No.

Q. Did he give you any advice at all as to how to manage this boy? A. No, sir.

Q. He simply told you that the boy could tell you where the stuff was, and turned the boy over to you? A. Yes, sir.

Q. Didn't he tell you, Captain, that if the boy told you the truth he wanted you to treat him right in the automobile case and help him? A. No; I can't say that, I can't say that.

Q. What did he tell you about it? A. He said take this boy, if I remember right, he is a client of mine or I am representing him and I want to take care of him, or word to that effect.

Q. And he asked you after you got through with him not to lock him up but to bring him back to his office? A. Yes, sir.

Q. Now, did Mr. Wolf at any time make any suggestion to you that you take this boy out to identify anybody—Allers or "Wiggles" or anyone else? A. Absolutely no.

Q. After you went down to the pond with the boy the first time you brought him back as per agreement to Mr. Wolf's office? A. That is right.

Q. You stated awhile ago that before Mr. Wolf came in you were standing on Wolf's sidewalk when General Gaither came by? A. Yes, sir.

Q. Did General Gaither report seeing you there? A. I think he had.

Q. So, there is no secret about that? A. No, sir.

Q. After you brought the boy back, after the unsuccessful search, and after hearing his story about "Boston" and "Chicago," you went over to get help? A. Yes, sir.

Q. And you reported to Commissioner Gaither, didn't you? A. Yes, sir.

Now, did you believe this story about "Chicago" and "Boston"? A. "Boston" and Chicago."

Q. "Boston" and "Chicago"? A. No, indeed, of course not.

Q. Why did you listen to it— A. My idea, if I had carried out what I intended to do was this: my idea was to let the boy go ahead and tell anything he wanted to tell, regardless of what it might be. I wanted him to show me by his actions what he was going to do. My full determination was, after I taken this boy, not to take him directly to headquarters but to smack him on the back and tell him what a grand fellow he was, and get somebody to my assistance and follow him and see if we could not come up with the men that we were trying to apprehend.

(Mr. Dennis): Now, then, Captain, Mr. Wolf did not tell you that this boy had been out to his house, did he? A. Never said a word to me about it.

Q. Didn't tell you anything at all about Socolow? A. No, sir.

Q. Didn't disclose any of Socolow's secrets or confidences? A. Never said a word to me about that.

Q. And Mr. Wolf told you in the boy's presence the boy was a client of his and wanted on an automobile charge, didn't he? A. Yes, sir.

Q. And the boy did not deny it, did he? A. No, sir.

Q. You took the boy to the pond and afterwards found the box and tag? A. Yes, sir.

Q. And reported the finding of the tags to General Gaither? A. Yes, sir.

Q. You went to the pond the second time with Captain Lurz? A. Yes, sir.

Q. And the boy. Now, going to the pond the second time with Captain Lurz, did the boy make any statement? A. I don't think he said anything, and there wasn't anything asked him.

Q. Now, before going down there with Captain Lurz, had you told Captain Lurz where you were going and why you were going? A. I did.

Q. And you told Captain Burns? A. Yes, I think I did. I know I did, because I went around there to see him and told him—

Q. And you got down there and had assistance and finally found this stuff. Now, after you found the stuff, you regarded that as valuable evidence, didn't you? A. I did.

Q. And after you found the stuff you brought the boy uptown again? A. Yes, sir.

Q. And you and Lurz were together? A. Yes, sir.

Q. And somewhere between two and three o'clock you dropped him at Mr. Wolf's office? A. Yes, sir.

Q. For the second time that day? A. Yes, sir.

Q. And told Lurz where he was going? A. Yes, sir.

Q. And Lurz saw him going there? A. Yes, sir.

Q. No secret about that? A. None in the world.

Q. Then you went to detective headquarters and reported what you had found and done? A. Yes, sir.

Q. And when the boy was wanted you knew where to get him? A. Yes, sir.

Q. And you told the Chief of the Detective Department where you could get him, didn't you? A. No.

Q. You did not? A. No. I told him I could get him.

Q. You went over and waited for Mr. Wolf to come back before you got him? A. Yes, sir.

Q. When Wolf came back the boy was inside the office; wasn't he? A. Yes, sir.

Q. Do you recollect whether Mr. Tompkins and Mr. Sherwood were sitting with him, the two newspaper men now in Court? A. I think there were a couple men sitting in there. Now just who they were I don't know.

(Mr. Dennis): Won't you please stand up, Mr. Tompkins and Mr. Sherwood?

(Witness): Yes (indicating); I think that is one and I think that is the other one.

Q. And the boy was sitting between those gentlemen in Mr. Wolf's reception room in his office? A. Yes, sir.

Q. He has a very large reception room in that office, with accommodations for a number of people. Now, then, what were the newspaper gentlemen trying to do; get an interview out of Keller? A. Yes. They were trying to talk to him when I came in, and I called the boy and took him away from them.

Q. You had protected the boy from having his photograph taken? A. Yes, sir.

Q. And from publicity earlier in the day; had you not? A. Yes, sir.

Q. And they were very anxious to find out who and what he was; were they not? A. Yes.

Q. And for police reasons you were keeping that to yourself? That is correct; isn't it, Captain? A. Yes, sir.

Q. Let me ask you this: Did Mr. Wolf see Keller alone at the time you went over to get Keller to take him to Detective Headquarters, when Mr. Sherwood and Mr. Tompkins were there? A. Not in my presence he did not; no.

Q. Well, the boy was in your presence all the time; wasn't he? A. Yes, sir.

Q. Did Mr. Wolf at any time in your presence on that occasion ask this boy if he was going to frame Allers? A. No. No, sir; No, sir.

Q. Did he ask him any questions at all about framing anybody or anything in connection with the Norris case? A. He never said anything about it at all.

Q. There was never any such conversation; is that what I am to understand? A. Yes, sir.

Q. Here is what this little lad testified to, Captain: What conversation or what statements, if any, were made by you to Mr. Wolf at that time, and what was said by Mr. Wolf to you just as you were going out with Leverton to go over to the Court House? He asked me if I had any money, and I told him, No. Do you recall anything of that sort, Captain? A. No.

Q. He said, Here is a dollar to get a place to sleep. Was there any such statement as that made? A. No, sir.

Q. What are you going to say, Allers found the tags, either one, he said, or are you going to say Allers framed Socolow. I don't know which he said. What did you say then, Johnny? Any such conversation as that? A. No, sir.

Q. Now, then, at the time that this boy was to be taken back to the Court House, to the Detective Headquarters, you are positive that Mr. Tompkins and Mr. Sherwood were there, or two gentlemen? A. There were two men there, and I think those are the two men.

Q. And are you positive that happened first, or before your first meeting with Keller, in the morning, when you were awaiting Mr. Wolf; that Mr. Wolf got in his office first; then they sent Dan for you, and that there was an interval of time before you came in and met Mr. Wolf? A. Yes. Mr. Wolf—I thought I saw him going in. I was waiting, coming backward and forward, and as I said a few moments ago, that General Gaither came by. I saw him and I did not know he saw me, but learned later that he did really see me standing there. And immediately, when I was just about to go in the door, this young man came out and said, Mr. Wolf is in here now.

Q. You had gone out to look after your automobile; hadn't you? A. No. The automobile had gone. I had sent the automobile back.

Q. And Mr. Wolf was in the office for a minute or so before you got there, got in? A. Well, no longer than that I know.

Q. Now, then, the boy said in his testimony yesterday, at this same occasion when you were present, and Mr. Tompkins was present, and Mr. Sherwood was present, what did you say then, John? I told him, Yes. What, if anything, was said about whether or not you might be held by the police? I told him, Suppose they hold me? And he, meaning Mr. Wolf, and he said to call my house, Call me up at my house and I will come down and get you out. From there you went with Leverton over to the Court House; didn't you? Yes, sir. Went to Captain Burns' office? Yes. Now, was there any such statement as that: That I told him, Suppose they hold me? and he said, to call my house, Call me up at my house and I will come down and get you out? A. No, sir.

REDIRECT EXAMINATION.

Q. (By Mr. Poe): Now, Captain, you only, of course, mean to say that you did not hear any conversation between Johnny and Mr. Wolf? A. I certainly did not hear it.

Q. Of course; you just did not hear it. Now, then, when you came back for Johnny, for the third time, where was Johnny when you saw him? A. The third time?

Q. Yes. A. He was standing on the pavement.

Q. Standing on the pavement when you came back for him the third time? A. When I came back for him the last time.

Q. Where did you get him from? A. And he went into the office. I suppose I was ten or fifteen feet from him, and I stood there for quite awhile with him, and I said to him, You better go on inside. And the boy went inside.

Q. Inside? A. Yes.

Q. When did you next see him? A. Why; I saw him as soon as Mr. Wolf came.

Q. Well, when did Mr. Wolf come; did you see Mr. Wolf come? A. Yes, sir.

Q. Huh? A. Yes, sir. I walked right in at the time with Mr. Wolf. No; Mr. Wolf went in ahead of me, a few minutes ahead of me or possibly a few steps ahead of me, and I came in right behind Mr. Wolf, and Mr. Wolf was standing then.

Q. Talking to Johnny? A. No. I don't think he was.

Q. Well, are you sure about that? A. No. Johnny was sitting off to one side, where those men were (indicating), if those are the men. They were sitting to one side.

Q. Well, Johnny was in Mr. Wolf's office for some time while you weren't there; wasn't he? A. Well, I suppose he was. He was there before I—I don't know where Mr. Wolf was before I got there in the morning. I couldn't say anything about that.

Q. When you came in you just took Johnny and went right off with him; did you? A. Yes, sir.

Q. Huh? A. Yes, sir.

Q. Didn't you go into Mr. Wolf's private office? A. I don't think I did.

Q. Well, are you sure you did not? A. No. If I did, I might have went into the reception room.

Q. Don't you know that you and Mr. Wolf went into Mr. Wolf's private office before you took Johnny over to the police station the third time? A. No; I don't think so.

Q. Are not quite positive of that? A. I am positive; yes.

(Mr. Poe): Now, Captain Leverton, did you talk to Mr. Tompkins—you know Mr. Tompkins, the gentleman sitting there? A. I don't know whether I said anything to him or not. One or the other of them wanted to talk to the boy, and I said, No. I said, This boy; I am going to take charge of this boy. They wanted to know what his name was. I said, I am not going to tell you anything about him.

Q. Hadn't you told Mr. Tompkins the story of what you had done in the morning and the discovery of the tags? A. I may possibly have done so.

Q. And the story of the boy about "Chicago" and "Boston"? A. No; I don't think so.

Q. Had you told him or not; there is the gentleman there? A. I am not certain.

Q. Didn't he meet you out in the street, and didn't you tell him the story while you waited for Mr. Wolf to come in? A. No.

Q. But you did not believe this boy at all from the very beginning; did you? A. No. I did not believe his story.

Q. Well, what story did you believe? A. I haven't believed anything he said. I don't believe anything—

Q. Well, why?

(Witness): I do not see how anybody can believe what he says.

(Mr. Poe): You did not believe him at all from the beginning; is that right? A. I did not believe him after we were unable to find these tags the first time, and the story he told me about "Chicago" and "Boston," it did not sound right to me.

Q. Why did you go to all the trouble of going back the second time and searching the pond? A. Because I wanted to learn whether he had actually told the truth about knowing whether these things had been thrown in there or not.

Q. Now, then, did the boy ask you to telephone Mr. Wolf after he had been taken over to Police Headquarters and was being detained there?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventy-first Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTY-SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. Poe): They are trying to impeach his story that when he left Mr. Wolf said, I will take care of you if they hold you at the police station; and the Captain admits that Mr. Wolf told him to take care of the boy or that he was interested in the boy. Now I have asked him whether or not the boy asked him to telephone to Mr. Wolf after the boy had been brought back to the police station that evening and was being detained.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventy-second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTY-THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Witness): Now, what is it you want to know?

(Mr. Poe): If the boy did not ask you to telephone to Mr. Wolf, to let him know that he was being held there at the station house? A. I think he did.

Q. And didn't you promise him that you would do it? A. I told him he would have to settle that with these men here.

Q. Did you report to these men his request? A. No.

Q. Why didn't you? A. Because I didn't think we were going to let him go at all.

Q. But he did ask you to telephone Mr. Wolf? A. I think he did.

Q. And did you telephone as he requested? A. I did not.

Q. Do you know whether Mr. Wolf telephoned or not to find out what was happening to the boy? A. No; I don't know about that.

Q. You don't know about that? A. No, sir.

Q. Now, you say you did not believe this boy from the very beginning, that your idea was, although you did not believe his story and did not believe anything he said, yet your idea was to let him talk and then to follow him? A. That's it.

Q. To see if he would lead you to the parties you were looking for? A. Yes, sir.

Q. Did you ever suggest that to anybody? A. No, sir.

Q. Just kept that within your own breast, did you? A. That's it exactly.

(Mr. Poe): I think that is all.

RE-CROSS EXAMINATION.

Q. (By Mr. Dennis): Now, then, Captain, just a moment if you please. The last time you saw Johnny Keller at Mr. Wolf's office was under circumstances you have described, where you and Mr. Wolf went in together in the afternoon and the two newspaper gentlemen were there, and then Keller was taken from Mr. Wolf's office to detective headquarters immediately after that, wasn't he? A. Yes, sir.

Q. Now, then, he has been in custody of the police ever since? A. I don't know where he has been since.

(Mr. Dennis): Now, then, Mr. Poe, awhile ago, asked a question in this fashion, that Wolf might have said something to Keller about asking him whether he framed Allers or not, and

you might not have heard him. Now, I want to ask you were you there all the time and did any such conversation occur?

A. No, sir; if such a conversation occurred, it was before I ever saw Keller.

Thereupon HARRY S. SHERWOOD, a witness of lawful age, produced on behalf of the State, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Poe): Mr. Sherwood, your full name is what, sir? A. Harry S. Sherwood.

Q. And your occupation? A. Reporter for The Evening Sun.

Q. Do you know Mr. Harry B. Wolf, the traverser? A. Yes, I know him.

Q. As a reporter of The Evening Sun did you have any particular assignment as to the Norris case? A. On Saturday, the 19th of August, my managing editor called me and told me the paper had made some agreement with Mr. Wolf, Mr. Wolf was going to assist the paper in trying to find the murderers.

(Mr. Dennis): Who told you that?

A. Mr. J. Edwin Murphy.

(Mr. Dennis): I just want to identify the man that told you.

(Witness): Mr. J. Edwin Murphy, the managing editor. And I hadn't done anything on the Norris case at that time, and Mr. Murphy told me that it would be a part of my duty.

(Witness): Excuse me. Mr. Murphy told me it would be a regular daily assignment to me to see Mr. Wolf once a day. I did not see him that Saturday because it was about three o'clock when I was told about it. I did see him the next Monday morning, just walked into his office in the course of other assign-

ments and did not talk very long with him. I think he spoke in very general terms about the thing. My remembrance is that he said that he thought out of town men had committed the crime, and my conclusion that what he said was not of consequence for the day. I think that was his conclusion, too, and I left. I think, as I remember, that on Tuesday I did not see him in the morning but I saw him in the afternoon. I found him on Lexington Street right near the door, the Lexington Street door of the Court House, and we talked then for a few minutes.

Q. Did you see him on Wednesday? A. On Wednesday about nine-twenty I think it was or nine-thirty. I was writing a story in the office.

Q. I am talking about Wednesday, the twenty-third? A. Wednesday—no, I did not see him at all on Wednesday.

Q. And how about Thursday, the twenty-fourth? A. Thursday, the 24th, about nine-twenty, I think I was writing a story about Sergeant Oram and had been out to his house the previous night, if I remember, and was writing a little story about him. I was told I was wanted on the telephone and I went to the 'phone and a voice which I thought was Mr. Wolf's voice said, This is Harry Wolf, can you come over here. I said yes. And that was all the conversation, and I went over.

Q. Thursday morning about nine-thirty? A. Yes.

Q. Now, did you go? A. I went over immediately, yes.

Q. Whom did you see when you got there? A. Well, I saw someone in the office.

Q. I mean, did you see Mr. Wolf? A. Well, presently I saw Mr. Wolf. I did not walk immediately into his office but I told someone in his office I was there and that he called me, and presently he came to the door of his private office and I went in.

Q. Was Captain Leverton there with the boy Keller at that time? A. No, I did not see either one.

Q. Go ahead and tell us what occurred between you and Mr. Wolf? A. Mr. Wolf said that he had a boy who had some

valuable information in the Norris case and who was going to find some of the articles involved. I am not absolutely sure that Mr. Wolf said that he was going to find the cash box and the license tags but it is my impression that he did say that. That he named just exactly what the boy was going to find. Mr. Wolf wanted me to go to a spot down in East Baltimore somewhere. I am not absolutely definite about the location but I think it was Baltimore and Highland Avenue, and with a photographer, and get a story of what happened and photographs.

Q. Yes? A. That was on Thursday.

Q. What did he say about the boy? A. What did he say about the boy?

Q. Yes? A. Well, I asked him immediately how the boy happened to know anything at all about the Norris case. Of course on Thursday I was working the story, was in charge of the story, and my interest was aroused by anybody who knew anything about the Norris case. And as I remember it, Mr. Wolf said, Well—he said this: he said the boy has been involved in connection with the theft of an automobile. I am not using Mr. Wolf's exact language, but the sense; he had been involved in connection with the theft of an automobile. I said, Well, how does he know anything about the Norris case. Well, he said, don't ask me too many questions about it, these people are suspicious, and I started to ask him and he got suspicious of me, so I dropped it. I think that was about all the conversation that took place. Mr. Wolf wanted me to go—following the boy, and I doubted that the office would want me to go so far away from the center of the city and I went to the telephone and asked the city editor what he wanted me to do, and he said he did not want me to go.

Q. The statement of Mr. Wolf, when you asked him about the boy and how he happened to know anything about it, he said what? A. He said the boy was involved in the theft of an automobile and that he had told him this after he had come to him about the theft of the automobile, and that he had started to question him and he said, I am almost sure that these words are Mr. Wolf's, these people are suspicious and you cannot ask them too much—he had asked the boy what he knew and the boy grew suspicious and he did not ask him any more for that time.

Q. Now, did you ask him anything about the boy, did he tell you anything about the boy himself, his characteristics or what kind of boy he was? A. Well, he said he was bright?

Q. Huh? A. He said he was a bright boy.

Q. A bright boy? A. Maybe not using those words: a bright boy or a smart kid or something like that.

Q. Was there anything said about the possibility of the boy getting in trouble?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventy-third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER (Seal)

SEVENTY-FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Witness): Was there anything said about the possibility of the boy getting in trouble?

Q. Yes? A. Well, I think I said to Mr. Wolf, don't you suppose the police will arrest this boy the instant that he gets in their hands?

Q. Now, go ahead. What did he say?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered,

whereupon the defendant excepted, and prays the Court to sign this his Seventy-fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTY-FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. He said something to the effect that he would get bail for him if he were arrested.

Q. What kind of bail, did he say? A. Yes. I think he said cash bail.

Q. That he would get cash bail? A. But the conversation was quick.

Q. Now, then, did Mr. Wolf give you an account or partial account of the Norris murder?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventy-fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTY-SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Did he give an account? Well, all that he said—I am a little bit embarrassed in this whole testimony because of the confidential newspaper relations under which it was given.

(Witness): Oh, he said something to the effect that the man who shot Mr. Norris, that, as I remember it, it was something like this, the man who shot Mr. Norris stood in front of him and said stick them up, stick them up, and Norris was slow about doing it and there was some scuffle, then Norris kicked the man and then the man shot him.

Q. When did he tell you that, Mr. Sherwood? A. Well, I am not sure when he told me that.

Q. Well, what is your best impression and recollection? A. The best that I can do is to say that I did not see Mr. Wolf until Monday which was the 21st of August, I think it was, and the last time I saw Mr. Wolf was Friday, the 25th, and it was sometime between those two dates.

Q. Did he tell you on Friday? A. He did not tell it to me on Friday.

Q. You know that positively? A. I know that, yes.

Q. You did not see him Wednesday, you say? A. I did not.

Q. And you saw him only on the street on Tuesday? A. Yes.

Q. Now, then, was there or not anything said to you by Mr. Wolf about keeping his name out of this?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventy-sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTY-SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Well, Mr. Wolf said, as men frequently say to the newspaper reporting the thing, I don't want you to use my name in connection with it.

Q. Now, then, when did you next go to Mr. Wolf's house, how often, on Thursday? A. I didn't go to his house.

Q. I did not mean his house. I said his office. But, before that, this morning, Thursday morning, after you got there about half past nine—anything said about Captain Leverton having taken the boy away? A. Well, Mr. Wolf said that Captain Leverton was going to take the boy away, was going to take the boy to the pool; and I came back, after telephoning the office, and told Mr. Wolf that the office did not want me to leave the center of the city, and that I would have another reporter and a photographer in a taxicab, sent around in a taxicab to go down.

Q. Did they go? A. They went.

Q. How did you know where they should go?

(Mr. Parke): Objected to. How can that have any possible relevancy in this case?

(The Court): What difference does that make?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventy-seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTY-EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Witness): I am not positive of that.

(The Court): The witness answers he is not positive.

(Witness): I am not positive about that. I am very definite about this: that I asked Mr. Wolf how we would—I assumed that a policeman taking a boy under those circumstances to find evidence in a murder case would be opposed to having reporters following him.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventy-eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

SEVENTY-NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. Poe): What did Mr. Wolf say to you then about the photographer and where he should go?

(The Court): Why don't you let him finish his answer? Let him finish his answer, cutting that out.

(Witness): I said to Mr. Wolf, How will we know?—when Mr. Wolf had given me the impression that Captain Leverton was going to leave in an automobile shortly—and I said, Well,

how will we know how he leaves or how will we know where he goes? Well, he said, you just let your man follow Captain Leverton; something of that sort.

Q. Well, did your man follow Captain Leverton? A. Well, I got the man to the Lexington Street door of the Court House, and then I moved him down to Calvert Street in front of the Court House, and later on I went down and told him that they had left, and they went on out, and my knowledge of it ended.

Q. Was this the first or second trip they followed them on?
A. It was the first. I think that they went on only one trip.

Q. Did they get a photograph?

(Mr. Parke): Now, he didn't go.

Q. When did you next go to Mr. Wolf's office that day?
A. Well, I went—that Thursday?

Q. Yes? A. The first time that I went I was probably there by 9.25 or nine-thirty. I had very few minutes talking to him and was probably out of the office telephoning to my office at ten o'clock, and was probably back at something in the general neighborhood of ten-fifteen or ten-twenty, spending very few minutes with him, and I don't think I saw him—

Q. Talking about Friday morning now? A. No. I am talking about Thursday.

Q. Yes? A. And I think I saw Mr. Wolf for the last time that day somewhere—some time in the general neighborhood of ten-thirty.

Q. Were you there in the afternoon? A. I did not go back that afternoon; no.

Q. Thursday afternoon? A. No; I did not go back.

Q. Were you there when Captain Leverton took the boy out in the afternoon over to Headquarters? A. Oh, I beg your pardon; of course, I was. At four-thirty, about four-thirty in the afternoon, the City Editor asked me to go over and see

the Keller boy, to find the Keller boy and get an interview with him, and I told Mr. Wolf's office, I think I spoke to Mr. Wolf himself, and someone there at least told me that the Keller boy was there, and I went over.

Q. How long did it take you to go from your office to Mr. Wolf's office? A. Between five and ten minutes.

Q. Go ahead. A. I went there, and Mr. Tompkins and the Keller boy were—

Q. This Mr. Tompkins, the gentleman sitting there (indicating)? A. Yes.

Q. A representative of the Morning Sun; isn't he? A. Yes, sir. They were seated on a bench-seat to the right hand as you enter the room beyond the telephone desk, and I sat down beside them and began to talk to him. Well, I sat there for a minute without saying anything, because "Tommy" was talking to him.

Q. Now, where were Captain Leverton and Mr. Wolf at that time? A. Well, I had not been there more than a minute when the door of Mr. Wolf's private office opened, and Captain Leverton and Mr. Wolf came out together.

Q. What happened after that? A. Captain Leverton walked up to Mr. Tompkins and the Keller boy and myself and said something to the effect that he wanted the boy to go with him, and we all arose, and I said to the Captain, I would like to talk to this boy, Captain; I came over to get an interview with him, and I haven't gotten started. Captain Leverton said, I have got to take him right away; orders that nobody talk to him. I remember very distinctly that Mr. Wolf said something to the general effect that he would let us talk to him; that he had no objection to our talking with him.

Q. Where was Mr. Wolf at this time? A. Standing there with us.

Q. Where was the boy? A. Standing there with us.

Q. How far was the boy from Mr. Wolf? A. I couldn't say that, but he couldn't have been very far, because we were all standing within a radius of ten feet, anyway.

Q. What happened then? A. The boy left.

Q. How long a time elapsed after Captain Leverton and Mr. Wolf came out of Mr. Wolf's private office before he and Captain Leverton left for the Court House? A. Oh, a very short time; less than five minutes.

Q. Was it as long as five minutes? A. I think not.

Q. Did you leave after that or did you talk with Mr. Wolf any further? A. I left.

Q. When did you next see Mr. Wolf? A. I think I might say in there that I asked the boy there to pose for his photograph, and he refused to do it. I think Mr. Wolf then tried to assist me in getting a photograph.

Q. Just describe how Captain Leverton took the boy to the Court House? A. He left Mr. Wolf's office and started to walk east on Lexington Street.

Q. How did he get out of Mr. Wolf's office; do you remember? A. Well, he walked out the hall, out the front way.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Seventy-ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. Poe): I just want to show the route he took to get the boy over to Headquarters. Just describe the route he took,

Mr. Sherwood. A. Well, I had told the photographer not to go in Mr. Wolf's office, because I thought the boy would be prejudiced against having his picture taken, might be if he saw the camera in advance, and I wanted to talk to him first, and as Captain Leverton and the boy left Mr. Wolf's office I stepped out and said to our "camera," This is your man and go get a picture of him, or words to that effect; and he stepped out in the street down between some automobiles and set his camera, and Captain Leverton—I did not think of the photographer any longer—and Captain Leverton and the boy walked east on Lexington Street to Calvert and north on Calvert to Saratoga, and Mr. Tompkins and myself were walking behind them, not very close, and Captain Leverton walked to Saratoga Street, up on the west side of Calvert, crossed over to the east side of Calvert at Saratoga, and came back north on Calvert Street. He was looking around all the time, and we were a square behind him at that time.

(The Court): Came back south on Calvert?

(Witness): Came back south on Calvert; yes. He turned at Calvert and Fayette, west on Fayette, and turned down and came back in the Court House, and Mr. Tompkins and I were there beside them as they went in.

Q. Now, then, when did you next see Mr. Wolf? A. On Friday morning.

Q. Friday morning? A. Yes.

Q. What time? A. I can't fix the time exactly, but it wasn't much later; I am sure it wasn't later than nine-thirty.

Q. Well, was there any change in his attitude or demeanor towards you since then, since the afternoon?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eightieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Mr. Poe): Go ahead, Mr. Sherwood.

(Witness): I had known Mr. Wolf. I had not been closely associated with him, but had known him as a reporter knows a man prominent in the city a great many years, and he had always been very pleasant, waving his hand and speaking to me, as he does to everyone; but when I went in that morning he was clearly disturbed about the article which appeared in the Morning Sun suggesting that the Keller boy was put in to wreck the State's case.

(Mr. Parke): I should think that was sufficient explanation of his change in demeanor. I do not think that is relevant.

(The Court): Did he say that, or is that just your inference.

A. Well, this is about the conversation. I went in and said, Well, what do you know about the development in the case? And he said, I haven't got anything to say except that I shall not be counsel for anyone in the case. And I, in an honest endeavor to get a statement which I thought would be justice to Mr. Wolf, I said, Well, do you think that does justice to you? He said, I haven't anything to say except that I shall not be counsel for anyone in the case.

Q. Did you say anything further to him about Mr. Leach—

(Objected to.)

A. No.

(Mr. Poe): I was just trying to refresh his recollection—about any charge that Mr. Leach was making?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony

to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-first Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I think I said that the articles in the morning papers represent Mr. Leach as saying—now, I have difficulty in being exact about my words, but it was something to the effect that he was the whole head and front of the Norris case, something of that sort. Well, now, that is not a good rendering of what I am trying to say. I think my words were about like this: The articles in the morning paper represent Mr. Leach as saying that you are the chief figure in this thing. Don't you think you ought to say something in justice to yourself? I am sure that was the sense, if not the exact words.

Q. What thing were you referring to? A. I meant the murder case, and the attack—I meant the attack on the State's case in the murder case.

Q. What was Mr. Wolf's reply to that?

A. He said, I thank you, Mr. Sherwood; I can take care of myself.

(Mr. Poe): We desire to exhibit these two papers to the witness, if your Honors please.

(Mr. Robinson): We want to object, may it please your Honors, to the newspapers.

(The Court): What is the object, Mr. Poe?

(Mr. Poe): This is the paper, The Evening Sun of Baltimore, Wednesday, August 27, the paper that young Keller said that they read, I want to show it to the witness and have him identify it as the copy of a paper that was issued that day. This man wrote the story.

(Judge Stein): What date?

(Mr. Poe): Wednesday, August 23rd.

(The Court): You gentlemen object to the paper?

(Mr. Robinson): We do not think the newspaper is evidence.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Question by Mr. Poe): Will you look at that paper and say whether or not that is a copy of The Evening Sun, Home Edition, of Wednesday, August 23rd? A. It is.

Q. Did you write the story which appeared in that publication? A. I did.

(Mr. Robinson): We want to reserve our exceptions, may it please your Honors, to the offering of the newspaper in evidence, and any evidence pertaining to it, without interrupting the gentleman.

(Mr. Poe): That is all right.

(The Court): The other doesn't make any difference. All that is material is the writing that has bearing upon this case. The advertisements do not enter into it, do not help or hurt anybody.

(Mr. Robinson): It was this article that we were objecting to.

(The Court): Do you offer the paper in evidence?

(Mr. Poe): Yes.

(The Court): All right.

(Mr. Robinson): We object to the offer.

(The Court): Yes, and we are giving you an exception on all of it.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. (By Mr. Poe): Is that a copy of the Financial Edition?

(The Court): Will you limit your offer, Mr. Poe?

(Mr. Poe): I limit my offer to the story relating to the confession of Allers.

(The Witness): Yes, that is a copy of the Financial Edition.

(Mr. Poe): We offer these papers in evidence.

(The Court): That is what you object to?

(Mr. Parke): We do not object to the identification, but it is the offering of the papers in evidence, or rather the article containing the confession, that we object to.

(The Court): I understand. Objection overruled and exception noted.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(Papers offered in evidence and marked "Sherwood's Exhibits 1 and 2," respectively.)

CROSS-EXAMINATION.

Q. Mr. Sherwood, when you called at Mr. Wolf's office on Friday morning, about 9.30, after the newspapers, as you expressed it, had made him the center of the affair, you found he was very angry, didn't you? A. Well, I found that his manner had entirely changed. I suppose it is fair to say he was angry, yes.

Q. And he ordered you out of his office, didn't he? A. He did not.

Q. Didn't he upbraid you for the way you had treated him? A. Not at all. As a matter of fact I had not treated him at all. I had finished my work the day—As a matter of fact I had finished my work with the publication of the story in the 5:30 edition of the evening before, and that had nothing in it at all to suggest that Keller was trying to wreck the State's case. There was nothing in the 5.30 edition, the last final paper of The Evening Sun is printed, nothing in the 5.30 of that date to suggest that.

(Mr. Poe): This is the one (paper) of Thursday, August 24th, which contains the photograph of the box and also the story as written by Mr. Sherwood.

(The Witness): If you will let me correct you, Mr. Poe, I did not write that entire story that day. I just wrote part of it and others wrote the rest.

(Mr. Poe): You wrote part of it?

(The Witness): Yes.

(Mr. Dennis): Are you through with the witness?

(Mr. Poe): One minute.

(The Court): He is talking now about Friday. Mr. Sherwood is talking about Friday because Mr. Dennis is directing his attention to what occurred Friday when he went back, and something had been published which caused a certain amount of anger on the part of Mr. Wolf. He is talking about Friday.

(Judge Duffy): What is it we are waiting on now?

(Mr. Poe): I was suggesting that was one of the reasons we had offered this article of Thursday that appeared in The Evening Sun, the financial edition, Thursday, August 24th, that the Court a moment ago we said we should not have the right to offer.

Q. You were in Mr. Wolf's office on Thursday after the murder, or rather late in the afternoon when Captain Leverton was there and when he took little Johnny over to police headquarters? A. Yes.

Q. The last time, I believe, that Keller was in Mr. Wolf's office. Leverton took the boy out of the office, didn't he? A. Yes.

Q. Did Mr. Wolf have any conversation with the boy at all in your presence before the boy left? A. I do not remember any, no, sir.

Q. You do not remember any such statements as Keller made, that Mr. Wolf asked him if he was going to say Allers framed Socolow? A. No; I know nothing at all about the Allers framed Socolow story, nothing at all whatever about it.

Q. Did you hear Mr. Wolf say that to the boy or not? A. No, sir; I did not.

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

Q. You said awhile ago in your direct examination that Mr. Wolf recited to you some of the facts in the Norris case, that the man who shot Mr. Norris stood in front and said, "Stick them up," that Norris kicked the man and the man shot him, or something of that sort. Now, weren't those facts substantially stated, published in the daily papers of Baltimore City, for several days before that?

(The Witness): I cannot say positively as to that. I think at the time I heard them they were unfamiliar, but I heard two versions very much like that since.

Q. Now, then, you did not attempt to fix the time when Mr. Wolf made that recitation to you except that it was before what date, August 25th? A. It was before Monday, the Monday after the murder, which I think was August 21st—I mean it was after Monday, August 21st, and it was before the following Friday.

Q. After the 21st and before the next Friday? A. Yes.

Thereupon, RAYMOND S. TOMPKINS, a witness of lawful age, produced on behalf of the State, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Poe): Your full name is what? A. Raymond S. Tompkins.

Q. You are connected with The Evening Sun I believe? A. Yes, sir.

Q. Did you have any conversation with Mr. Wolf with reference to the Norris case, the day following the murder? A. No, sir; I did not.

Q. When was the first time you saw Mr. Wolf? A. I saw Mr. Wolf on the night of the day the murder took place.

Q. On Friday? A. Yes, sir.

Q. Will you tell the conversation of that incident?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I merely went to see Mr. Wolf on orders from my paper to ask him to be of all the help he could in solving the mystery of the Norris case.

Q. (By Mr. Poe): And you did see him? A. Yes, sir.

Q. What was his reply? A. Mr. Wolf said he would be glad to do anything that he could to help the Sun or the public.

Q. Now, then, anything else? A. Yes; Mr. Wolf said that we might either publish the fact or we might keep it quiet as we saw fit. He would do everything that lay within his power to assist the State and he gave me a tip about some people who he thought had come from Philadelphia or Pittsburgh who had been seen at the Hotel Winton the night before and who later had registered at the Hotel Emerson.

(The Court): What day was that?

A. Friday, August 18th. That was the night, sir, the day the crime occurred.

Q. (By Mr. Poe): Now, was there anything else with reference to the position he was to occupy in the prosecution of the case?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I suggested to Mr. Wolf that if he could be of help and was of help that my paper would stand back of him; would be of all the assistance it possibly could be to him, would see to it that if he liked he had a show in the prosecution of the criminals when they were caught. Mr. Wolf said that would be very nice. He would like very much to be of such assistance.

Q. Now, when was the next time that you saw Mr. Wolf? A. I think I saw him the next day.

Q. Next day? A. Yes, sir.

Q. Then did you see him on Thursday? A. What Thursday do you mean, sir?

Q. The Thursday of the following week or August 24th? A. You mean to refer to the day that John Kelier turned up?

Q. Yes? A. Yes, sir; I saw him that day.

Q. Will you tell us what occurred on Thursday?

(Mr. Robinson): I don't want to be always objecting, but I want to object to this question.

(The Court): All right, go ahead.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Did you see Mr. Wolf on this Thursday, August 24th? A. Yes, sir.

Q. If so, will you tell us what occurred?

(Objected to; overruled; exception noted.)

A. I saw him on Lexington Street at the entrance to the Court House.

Q. What time of the afternoon was it? A. I think it was about four o'clock; might have been a little before.

Q. Will you tell us what occurred? A. I said, How do you do, Mr. Wolf.

(Mr. Robinson): Objected to.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

EIGHTY-NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness, continuing): We stood there and conversed.

Q. What were you talking about, Mr. Tompkins? A. Talking about the Norris case.

Q. What did Mr. Wolf tell you, if anything?

A. He told me that the boy who had found the box and tag was in his office at that moment. It so happened I was looking for that boy and I was glad to hear that news.

Q. What did he tell you about the story if anything? A. About what story?

Q. Did he go into details of the finding of the box? A. No, sir.

Q. Or any statement that the boy had made? A. No, sir.

Q. Did you see Capt. Leverton about that time? A. Yes, I saw Capt. Leverton shortly after I met Mr. Wolf.

Q. Yes! A. Mr. Wolf took me over across the street and introduced me to him.

Q. What did Mr. Wolf say when he introduced you to Capt. Leverton? A. Capt. Leverton, this is Mr. Tompkins.

Q. Well, did Mr. Wolf stay there? A. No, sir; he went into his office.

Q. Say anything else? A. Asked Capt. Leverton to tell me all he knew about the boy. I had asked Mr. Wolf to tell me what he knew about the boy and he turned me over to Captain Leverton.

Q. Did Capt. Leverton then tell you everything he knew about the boy?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Eighty-ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Court): Capt. Leverton!

(Mr. Poe): At Wolf's instance, but he told Capt. Leverton to do it.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign

this his Ninetieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Go ahead, Mr. Tompkins? A. You want to know whether Captain Leverton told me?

Q. Yes? A. He told me the story that he said the boy had told him earlier in the day, story to the effect that the boy had been walking up Broadway on the Sunday night, on the previous Sunday night, had met two men who asked him if he wanted to make some money.

Q. (By Mr. Poe): After that was there any statement made by Capt. Leverton to you in Mr. Wolf's presence as to what had happened that morning? A. No, sir.

Q. Did you go into Mr. Wolf's office after that? A. I did, sir.

Q. Did you ever talk with the boy John Keller? A. Yes.

Q. Where was the boy Keller when you came into Mr. Wolf's office? A. Sitting in a chair in Mr. Wolf's waiting room.

Q. Where were Leverton and Wolf? A. In Mr. Wolf's private office.

Q. Had they preceded you into that office before you came into the main waiting room or did they go in there—

A. I might say that when I went into Mr. Wolf's waiting room I did not see either Mr. Wolf or Capt. Leverton. My reason for saying that they were together in Mr. Wolf's office is that I saw them coming out together later.

Q. How long were you in Mr. Wolf's waiting room before you saw Capt. Leverton and Mr. Wolf come out of Mr. Wolf's private office? A. I do not remember exactly but I think about 15 minutes.

Q. During that time who were you talking with if anybody? A. For a moment I talked with Mr. Wolf. The door of Mr. Wolf's office opened a moment after I came into the waiting room and Mr. Wolf himself came out preceded by a boy. I asked Mr. Wolf quickly, "Is that the boy?" Thinking that was the boy who had discovered the box and tag. Mr. Wolf said, "No, that is not the boy, and he inclined his head toward a little fellow sitting in a chair at the other side of the room, without saying anything. I assumed, however, that that was the boy and sat down beside him and Mr. Wolf went back into his office.

Q. Then did you talk with the boy John Keller at all yourself? A. I did, sir.

Q. How long did you talk with him? A. I suppose the difference between about 15 minutes and the time that had elapsed between my arrival in the office and Mr. Wolf's again retiring into his office after a minute.

Q. How long was Mr. Wolf out in the waiting room after he came out of that door with Mr. Leverton? A. Only long enough to dismiss this boy and say to me "That is not the boy," and then turn around and go back, as I recollect it.

Q. When Mr. Wolf and Capt. Leverton came out of the private room what happened? A. They came toward the boy, Mr. Sherwood and myself. Mr. Sherwood came in in the meantime.

Q. How long did Capt. Leverton and Mr. Wolf remain in the waiting room before Capt. Leverton went off with the boy? A. A very few minutes, sir; I don't remember exactly how many.

Q. Was there a general conversation then? A. The conversation was general, yes; we wanted to get the boy's name and the boy had refused to give me his name. He had told me a story. We also wanted to get his picture and he refused to pose for his picture.

Q. What story had the boy told you?

(The Court): What was it about the boy's story that you said?

(The Witness): The boy had told me a story and had refused to give me his name.

Q. What story had the boy told you?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninety-first Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-SECOND BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. A story to the effect that on the previous Sunday he had been accosted by a couple of men as he was coming up Broadway who had asked him if he wanted to make some money. He replied yes. That they had then taken him out to Highlandtown to a garage and had commanded him to open the door of the garage, giving him the key. That he had refused. That one of the men had pressed a pistol against him and had said, "Open that door or we will croak you." That then he had opened the door. That one of the men had gone in and gotten a box and tag and a bag and had then taken him to a pool nearby, or not far away, I forget exactly how he described it, and had commanded him, as I recall it, to throw the box and the tag into the pool and he again refused to do what they asked and they again threatened to kill him and he threw the box and the tag into the pool. That then they came back, that he had left them at Preston and Broadway I think, that one of the men had given him

\$25 and had told him to say nothing about it or he would be killed. That was his story to me. Then I asked him his name and he would not tell me.

Q. Where did you next see Mr. Wolf? A. I don't quite understand that; what do you mean by next?

Q. After this Thursday afternoon? A. The next day.

Q. What hour and where? A. A little after noon in his office.

Q. What conversation if any occurred then? A. Very little conversation. It concluded with Mr. Wolf ordering me out of his office.

Q. What did he say? Why did he order you out? A. He appeared to be very angry over the story that the Sun had printed that morning about this boy's having appeared to have told a fake story, about the boy's having appeared to try to ruin the case of the State and about the boy having been seen in his office.

Q. Did you make any attempt to get into touch with Mr. Wolf Thursday night? A. Our office did, but I did not personally.

Q. Do you know whether they were successful in getting in touch with him or not?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninety-second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. They were not successful as I understand it.

Q. (By Mr. Poe): Did you or not ask Mr. Wolf if he had any statement to make when you saw him Friday morning?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninety-third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Yes; I asked him if he had any statement to make. He said he had nothing whatever to say to me or to anyone else connected with the Sun.

CROSS-EXAMINATION.

Q. You were in Mr. Wolf's outer office some time after the middle of the afternoon Thursday and talking to little Johnny Keller, weren't you? A. Yes.

Q. That was immediately before he was taken over to police headquarters, or to detective headquarters, by Captain Leverton? A. I haven't the faintest idea where he was taken after he left that office, except that he was taken in the Court House.

Q. Taken in the Court House by Captain Leverton, and you trailed Captain Leverton around the square and saw them land in the Court House? A. Yes.

Q. While you were there did Mr. Wolf have any private conversation at all with John Keller? A. None that I know of.

Q. And you were there all the time and would have known it if he had had? A. I was there, as I said, a little while ago, for about fifteen minutes.

Q. Well, during the fifteen minutes you were there, and it was the 15 minutes immediately preceding the taking of Keller from Mr. Wolf's office, did Mr. Wolf have any conversation with him which you did not overhear? A. No, sir.

Q. Was there any such conversation between Mr. Wolf and Keller in your hearing that Keller testified to? He testified that Wolf asked him if he was going to frame up Allers? A. There was no such conversation as that in my hearing, sir.

Q. Now, then, you and Mr. Wolf discussed this case very many times, didn't you, Mr. Tompkins? A. A number of times, I do not remember how many, sir.

Q. And you were out at his house the night of the murder, Friday night, the night after the murder? A. Yes.

Q. And you and he discussed it at length and criticised the police somewhat, both of you? A. I think Mr. Wolf criticised the police to some extent, and that I agreed with him to some extent.

Q. And you both at that time thought it was an out of town job, didn't you? A. Mr. Wolf seemed to think so. I had no thought on the subject at all.

Q. You had an open mind on the subject? A. Yes.

(Examination of witness concluded.)

Thereupon, JAMES LOCKE, a witness of lawful age, produced on behalf of the State, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Poe): What is your full name? A. James Locke.

Q. You are connected with which papers in this city? A. The News and the American.

Q. What is your position with those papers? A. Associate editor.

Q. Do you know the traverser, Mr. Harry B. Wolf? A. I met him once.

Q. Do you remember the day? A. Met him on Friday, August 25th.

Q. Friday, August 25th? A. Yes, sir.

Q. Where did you see him and under what circumstances did you see him? A. Mr. Harwood, the editor of the paper, came into my room and told me that Mr. Wolf—

Q. Never mind what was told you, just state what you did? A. I went up, under instruction from Mr. Harwood, and requested some of my assistants in the editorial department to give me their room on the fourth floor because Mr. Wolf wanted to come over and see—

A. On the fourth floor, in two of my assistants' room, I think Room 413, Munsey Building.

Q. And who were present? A. Mr. Wolf, Mr. Harwood and myself.

Q. This was on Friday, 25th of August, wasn't it? A. Yes.

Q. Had at that time the papers published the account of young Keller and the breaking down of his story? A. Yes.

(The Court): The papers published that Thursday morning. If this was Friday it was the day afterwards. I do not see why you object to his saying that Friday is the day after Thursday.

(The Court): We overrule the objection to get rid of it.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninety-fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Yes, the papers had published it.

(Mr. Leach): Friday morning?

(Mr. Poe): He said it was Friday morning.

Q. You said it was Friday morning, did you not? A. Yes; Friday morning.

Q. The forenoon, I think you said? A. Yes.

Q. Did Mr. Wolf come to your office? A. Mr. Wolf came.

Q. Did he state why he had come? A. Yes.

Q. What did he say?

A. He said that Mr. Harwood had been kind enough—

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninety-fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness, continuing): —had been kind enough to send him, or to mention to him through a reporter, that he did not believe he was fool enough to have engaged in this conspiracy, and he wanted to come over to talk to us and prove to us that he was not enough of a fool to do it.

Q. Now, then, what happened, just tell it in your own way—what happened? A. Mr. Wolf said—

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninety-sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. Mr. Wolf wanted to have us talk to him. He said he would answer any questions with absolute truth, and it was understood—I think Mr. Wolf mentioned it—that he was not over there to give us an interview, and we had no intention of making an interview out of it. We asked him various questions and he answered some of them, and we had a general discussion on the criminal lawyer and the criminal situation, and on State's Attorneys. We asked him more particularly—

(Mr. Parke): We object to that. It certainly seems to us inadmissible. What do you propose to prove?

(Mr. Poe): You will find out.

(Mr. Parke): We have the right to know now.

(Mr. Poe): We are going to prove his statement about his connection with this case, how the young man came to his office, and so forth.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninety-seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness): Mr. Wolf, in response to my questions, more particularly—some of it was volunteer information, I cannot say which—

(Mr. Robinson): I think we are entitled to have the questions and answers given, the whole conversation, not this witness' conclusion of the effect of it.

(Judge Bond): Tell all you can remember of the conversation.

A. I do not know that I can quite separate what he volunteered and what he gave us from our own questions.

(Mr. Poe): Just give the conversation.

(The Witness): The story which he told us as a result, both of his volunteering, of our questions, was——

(Mr. Parke): That is what we object to.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his Ninety-eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

NINETY-NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness): Was that he had—that young Keller had come to him on Wednesday afternoon at his office in regard to a larceny case; that he knew the boy's associates, and therefore thought the boy must know something about the murder, and after he was through with the business, the larceny business, he turned to him and said, "Now, I want to know about this murder; I want you to tell me what there is about it," and he finally brought out of the boy the story of the license plates. He said he wouldn't believe it himself at all, or he didn't know whether there was anything in it or not, but that he thought there might be something in it and the police ought to have it; that he called up Captain Leverton about it: Captain Leverton being a friend of his whom he wanted to help. In addition to that he told of having previously offered General Gaither, I think, immediately after the day of the murder, his services, his aid and any information that would come to him, having gone to General Gaither to talk about it.

Q. (By Mr. Poe): Did he go into any details as to the story the boy told him when he questioned him as to the knowledge of the Norris murder? A. No; the story was—or all the con-

versation was limited entirely to the part of the boy's story ending with the recovery of the license plates.

(Mr. Robinson): That had all been published.

(The Witness): Yes; that had all been published.

(Mr. Poe): Did he tell you about anything that the boy said preceding the finding of the license plates?

A. (After hesitation): No; I don't think so. We didn't go into any of the details of the boy's story at all.

Q. Was there any discussion as to the guilt or innocence of Socolow?

A. There was nothing said in regard to Socolow. But the tenor of the conversation was——

(Mr. Parke): Object to that, if your Honor please.

(The Witness, continuing): The substance of the conversation——

(Mr. Robinson, interrupting): Tenor of the conversation was so and so.

(The Court): He says substance now.

(Mr. Robinson): Whose conversation was it, the newspapers or Mr. Wolf's?

(The Witness): Mr. Wolf's.

(Judge Stanton): The question says Mr. Wolf's conversation.

(The Court): Do you object to him giving the substance?

(Mr. Robinson): Of that conversation? Yes, sir.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign

this his Ninety-Ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDREDTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. The substance of the conversation was on Mr. Wolf's part that the boy must know, the boy probably knew something about the murder because he knew this crowd, apparently something, as far as we are concerned, that the whole crowd were guilty. There was no question raised as to the guilt or any one of the men who were named in Allers' confession. We asked him nothing as to what he thought of the guilt of any particular man or of all the men, and he did not specifically state the guilt of any of them, but he said that he asked the boy about the murder because he knew these men were his associates.

(Mr. Robinson): You mean Keller when you said "boy"?

(The Witness): Yes, meant Keller.

CROSS-EXAMINATION.

Q. (By Mr. Parke): Mr. Locke, Mr. Wolf indicated to you that he regarded all of the participants in this crime as being equally guilty? A. Yes, sir.

Q. And that was the substance of it? A. Yes, sir.

Q. And there wasn't any difference arose between you and him with respect to that? A. I didn't raise the question myself at all.

Q. But he indicated to you that he regarded them all equally guilty? A. Yes.

Q. And he told you that he thought the boy knew about the commission of the crime because of his previous association with them? A. No. He said at the finish of his discussion about the automobile case which the boy had come to see him about that then, knowing his associates, or knowing about the crowd he was running with, or that he was running with this crowd the police were after, he turned to him and said, "Now, I want you to tell me about that murder." I think those are practically the words. "Now, tell me about that murder," or "tell me what you know about that murder," or something of that kind.

Q. Now, wasn't Mr. Wolf's visit to you gentlemen caused by the fact that at that time he was under newspaper criticism in Baltimore City? A. I was not present when the engagement with Mr. Wolf to come over was made.

Q. But you misunderstand me. At the time he came over to see you, wasn't Mr. Wolf being named in some press of Baltimore City as having some association or connection with this Norris murder of an undesirable and unworthy character? A. Up to that time only in the news stories of the morning Sun and the American, one story in each one.

Q. That has general circulation throughout the city, hasn't it? A. Yes, sir.

Q. And it was known to you as a newspaper man, wasn't it? A. It was.

Q. And he resented this connection of his name with this crime, didn't he? A. Yes.

Q. And wasn't he endeavoring to convince you and our associates that he had not participated and that he was under no obligation that he had violated as a professional man? A. No.

Q. Wasn't trying to convince? Was he stating his views? A. No; he was trying, I suppose, according to all the evidence that I have been getting—

(Mr. Robinson, interrupting): Object to that. We don't want his opinion. We want what was said.

(Mr. Parke): He is not entitled to that. We object to it.

(The Court): Stop him when you want.

(Mr. Parke): Now, I will withdraw that question and ask you this. Wasn't Mr. Wolf there endeavoring to have the News try his case with fairness and consideration to him? A. To the best of my knowledge he was not.

Thereupon, MR. CHARLES M. HARWOOD, a witness of lawful age, produced on behalf of the State, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Poe): You are connected with what papers? A. News and American.

Q. (By Mr. Poe): You know Mr. Wolf, I believe? A. Yes, sir.

Q. Did you have occasion to see Mr. Wolf on Friday morning, August 25th? A. Yes, sir.

Q. Will you tell the Court how he happened to have this interview? A. Yes, sir. A reporter called me up Friday morning and said that he had told Mr. Wolf a remark that I had made in the office that I didn't think Mr. Wolf was fool enough to be a party to the frame-up that the papers talked about that morning, and asked me if I would see Mr. Wolf. Later Mr. Wolf called me on the phone and said the reporter had told him that I had said that and asked if I had any objection to seeing him, and if he could come over with the understanding that it was not a matter for the newspapers, and I told him yes, if he didn't want to come to the office, I told him, he could come to a private room and he came there.

Q. Who was present? A. Mr. Locke and myself.

Q. Tell the Court exactly what happened, according to your recollection?

(Mr. Robinson): We want to reserve the same exceptions.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundredth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND FIRST BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Court): All right.

A. Mr. Wolf said he wanted to come over and have us look him over; that he repeated the remark, as I recall the conversation, as I had made it, and he wanted to know, after looking him over, if we thought he was fool enough to be a party to this frame-up. He then went on to tell of the boy Keller. I asked him a question about the boy and he said the boy came to his office on this larceny or automobile case, and in the course of that conversation I believe, when it was over, he asked the boy, what do you know about this murder case, or words to that effect, and the boy told the story of the license plates and tags. I believe I asked Mr. Wolf if that was right out of a clear sky, and he said he was as much surprised as anybody else, that he sent the boy to Capt. Leverton. I asked him why he did not send him to Commissioner Gaither. He said I made a mistake. I should have sent him to Commissioner Gaither. I told Commissioner Gaither I would help him. I think he added also that this is the last time I will try to help the police. He said Leverton was a friend of his and he would try to help a friend, and knew Leverton was an honest policeman, and spoke about him for quite awhile, and some other members of the force, but he said he ought to have turned the boy over to Commissioner Gaither. He said he did not know whether the boy's story was true or false. I think he said, I was just as much surprised as you when he delivered that stuff—told about the boy coming back and being sent back again and getting the stuff.

Q. Anything else that you recall? A. We had a general conversation there about the practice of criminal law and the importance of the case.

(Judge Gorter): Judge Stanton wants to ask you a question, Mr. Harwood.

(Judge Stanton): You say that Mr. Wolf told you that Keller came to his office to consult him about an automobile case?

A. Yes.

Q. Did he say when he came? A. I do not recall, Judge.

Thereupon, SERGEANT EDWARD STEMPEL, a witness of lawful age, produced on behalf of the State, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. O'Connor): You are a sergeant of police? A. Yes.

Q. Attached to the Central District? A. Yes.

Q. Were you at the Central Police Station on the days of Friday and Saturday, August 25th and 26th, when John Keller was in custody there? A. Yes.

Q. On Saturday afternoon, August 26th, of this year, did you see Mr. Wolf there? A. Yes.

Q. What conversation if any did you have with him? A. Mr. Wolf came in with Mr. Stevenson and Saylor, and said he would like to see Keller.

Q. That is J. Abner Saylor, the attorney? A. Yes; and I told him we had orders not to allow any one to see him unless we had orders from Mr. Leach.

Q. What did he say? A. He said, Can I get in touch with Commissioner Gaither, and I said, Yes, I will call him up and tell him you are here. And I called him up and told him Mr.

Wolf would like to see Keller and we would not let him see him without Mr. Leach's orders, and that Mr. Wolf would like to talk to him, and Mr. Wolf went around and talked to General Gaither.

Q. Did he or not see him? A. He telephoned to him.

Q. Did he or not see Keller? A. He did not see Keller, no, sir.

(Mr. Robinson): No one has seen Keller, have they?

(The Witness): Not as I know of.

Thereupon, J. ABNER SAYLOR, a witness of lawful age, produced on behalf of the State, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Poe): You are a member of the bar? A. Yes, sir.

Q. You know Mr. Wolf? A. Yes, sir; I have known him for a good many years.

Q. Did you have occasion to go with Mr. Wolf to the Central Police Station on Saturday, August 26th? A. Well, I went to the Central Police Station with him one Saturday afternoon, but the date I do not recall. I heard the sergeant a moment ago say it was August 26th, but I do not remember the date.

Q. Tell us how you happened to go with Mr. Wolf and for what purpose you went? A. Saturday afternoon, I should say some time between one and two, Mr. Wolf telephoned me saying would I kindly walk around to the Central Police Station with him. I said sure. Now, my office is at 228 St. Paul Street, and it is on a line between Mr. Wolf's building where his office is and the Central Police Station, and in a little while Mr. Wolf and Mr. Stevenson came along and I walked—

Q. Who is Mr. Stevenson? A. Mr. Richard Stevenson, his associate.

Q. Of Mr. Wolf's? A. Yes; and we walked north on St. Paul Street to Saratoga, and west on Saratoga Street and went in the Central Police Station. On the way going around I probably inquired what was the object of this visit—Harry—Mr. Wolf told me that Keller was locked up around there, and he wanted to see Keller, that they would not let him see him, and he just wanted me to go as a witness in case he was denied admission so he would have some one there to tell about it, some disinterested person. So we walked in the station house and as the sergeant testified that is about what occurred in the place.

Q. Yes? A. And then we were there only a few moments.

Q. What was Mr. Wolf's attitude when he was denied access— A. Well, he did not like it.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and First Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND SECOND BILL OF
EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. What was his attitude? A. He went around to see some one, and you and I would know exactly how he felt. He went there to see his client and did not see him.

Q. Went there to see his client? A. I imagine it was his client. He went there to see some one. I would have been furious under the same circumstances and I think you would have, too.

Q. I asked you what was his attitude? A. He did not like it and he expressed himself rather forcibly to me.

Q. Go ahead, what did he do then? A. We were leaving—we stayed there only a few moments and came out of the station house and we walked east on Saratoga Street on the north side—shall I continue?

Q. Go right ahead? A. As we walked down there, I was on the inside towards the buildings and Mr. Wolf was on the curb side and Mr. Stevenson in the middle. As we got to an open space there just between the Central Police Station and the building, the old Maryland Historical Society building—there is a wall and two yards there, and I heard a noise something like Pst! Pst! I was leaning—sort of looking over this way to my right and talking, listening to what they had to say, or what Mr. Wolf had to say, and about the same time I heard the noise I saw a man across the street trying to signal to us that there was some one over there trying to attract our attention, and when I looked around there was some one up in the window of the station house. The others had not observed it apparently. I called attention to the fact that there was some one up there in the window who wanted to attract our attention. I said, "Harry, does that man want to see you." He said, "I think it is Keller." So we stood there and looked at Keller, and I guess it was Keller—I could not see his face. I would not know the man again. It was some distance away. It was the second story and the sixth window back. I counted it. He wanted to get Mr. Wolf's attention apparently, so we stood there and looked at him, and he looked at us and we talked a little bit about talking to him.

Q. Go ahead and tell us what happened?

(Mr. Parke): Does the Court think this is relevant?

Q. Go on? A. Well, it was very easy to talk to him, it would have been a very simple matter. Now, it was rather hot weather—

Q. Tell us about your talk with Mr. Wolf? A. Well, we discussed—

Q. What did he want you to do?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Second Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND THIRD BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness, continuing): Mr. Wolf—if you will just let me go back a little I will tell you why—coming out of the station house he told me what he wanted to tell Mr. Keller, and I recall some of it. I can tell some of it now. He said Keller was a little boy—and he had been turned over to the police by Mr. Wolf upon their promise to turn him back, and they had not turned him back, and he wanted to see him. He said I would like to tell him I was in here today but I could not see him and I am coming back Monday to do the same thing.

Q. What did he say about the boy, how did he characterize the boy?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Third Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND FOURTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. He said he was a sharp little boy.

(Mr. Parke): Is this in furtherance of the conspiracy?

(The Court): Whatever Mr. Wolf does is in furtherance of the conspiracy, yes. That is all admissible.

(The Witness): He said he was a sharp little boy; he did not say shrewd; I remember the word "sharp." He might have said "bright" instead of "sharp." The boy had the use of his wits, that is the impression I got, but I do not remember the exact words. Then, as I say, about that time we were stopped by this noise that I heard and then there was some talk about Mr. Wolf's going up there to talk to him and I recall that I said, "If I were you, Harry, I would not walk up there, you might get a bad story from the newspapers and they might criticize you a little bit. You were denied admission on the inside and now you can talk to him on the outside and I would not do it." I did not know anything about the case and I was not particularly interested, to tell you the truth. I think somebody said, "You go," and I said, "No, I don't feel like going up there," and they said, "Let Dick go." Dick was Mr. Stevenson. So Mr. Stevenson walked through the gate of the Automobile Commissioner's, walked up into the yard and he was right like that, there was the building there and say up there is the second story window; Dick was about opposite some window there and it was very hot weather and I don't know whether the Central Police Station windows were open or not, but it was a very hot afternoon. I saw Dick looking up at the boy and the boy sort of looked down. He was there only a moment, and then he came back and he said something about I could not understand him, or something like that, and then we walked down the street. No, we walked across Saratoga Street, and as we got over there then I got to talking with this man that I had seen over there, a fellow that works around the Daily Record. Do you want me to tell what he told me?

Q. (By Mr. Poe): Please tell the Court what, if anything, Mr. Wolf asked you to do so far as Keller was concerned? A. I think I have covered it.

Q. I don't think you have; what did he ask you to do; what did he ask you to do to which you said no, what message did he ask you to take to Keller? A. None.

Q. What did he ask you to do? A. I would not say that Mr. Wolf asked me to walk up in the yard.

Q. Why did you say no, I would not have anything to do with it; what was that for?

Q. No, he said he would not get mixed up in it; did you say that or not? A. I cannot recall. This thing happened very quickly and I did not attach any importance to it and I don't remember the exact words that were used. But I do recall saying that I did not care to go up there.

Q. Why did you say that, that you did not care to go up there; did anybody ask you to go up there?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Fourth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND FIFTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness): I will be very glad to answer the question, if you want me to answer it. Is there any objection?

Q. What was it Mr. Wolf asked you to do as far as young Keller was concerned?

Q. Did you ever, after that, at the request of Mr. Wolf, call up Detective Burns about bail for Keller? A. I did, sir.

Q. Tell what you did there?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Fifth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND SIXTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I called up Captain Burns and asked him about bail, what bail was required for Keller.

Q. What was his reply and what did you report to Mr. Wolf?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Sixth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND SEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. He replied that they did not want to let him out on bail, they wanted to keep him, didn't want any bail.

Q. Did you report that to Mr. Wolf? A. I reported it.

CROSS-EXAMINATION.

Q. (By Mr. Dennis): Mr. Wolf was getting mad about the stories that had been told about him, wasn't he, when you saw him on Saturday afternoon? A. I heard him say something about that to Mr. Williams.

Q. He was very curious to know whether Keller had told these stories on him, wasn't he, very much interested to know? A. I imagine he was.

(Mr. Leach): We do not want imaginations.

(The Witness): I cannot recall just what he said, but the impression I got was that Mr. Wolf had been unjustly criticized and he wanted to run this thing down to the bottom.

Q. And he wanted to find out from Keller whether Keller was or was not responsible for these stories? A. That is the impression I had.

Q. And he wanted you to go along with him as a friend and witness in case Keller said anything? A. As a friend and disinterested witness, that is some one who was not connected with the case who would go along with the idea of telling anything that might occur.

RE-DIRECT EXAMINATION.

Q. (By Mr. Poe): Did not Mr. Wolf ask you to take to Keller that afternoon any message?

A. No, sir.

Q. What was it you refused to do?

(Mr. Robinson): They went into that and turned him over for cross-examination.

(Mr. Poe): He has not answered it yet.

(The Court): Why don't you ask him a leading question? Then he will either answer it yes or no.

Q. (By Mr. Poe): Did Mr. Wolf ask you, or Mr. Stevenson to send a message to that boy to keep his mouth shut, that he would stand by him and get him out on Monday?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Seventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND EIGHTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. When we were standing there—you see this all happened very quickly and somebody said, "You go," to me, and I said, "No, I don't want to go, let Dick go," and Dick went, there was nothing said about what the message was to be, nor what Dick was to say to this boy. There were no instructions given.

Q. Did you hear those words used, or anything similar to those words? A. No.

Q. Anything about telling him to keep his mouth shut and "I will stand by him and get him out on Monday?" ? A. Earlier, before that happened, Mr. Wolf told me what he wanted to say to the boy.

Q. What was that? A. I thought I covered that before.

Q. What was it? Can't you answer the question? Did Mr. Wolf say, or was it suggested at that time in your presence, or at

any time, just immediately preceding that that the message, "Keep your mouth shut, I will stand by you and get you out on Monday," was to be sent to the boy Keller?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Eighth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND NINTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I remember his saying that I wanted to tell the boy that he was around on Saturday and was coming around again on Monday to see him. I do not recall his saying, "Keep your mouth shut." He may have said it. I would not say that he did not.

(Mr. Robinson): To you?

(The Witness): Yes, to me. He may have said it, but I do not recall it distinctly like I do the rest.

Thereupon, SERGEANT MARTIN J. MANION, a witness of lawful age, produced on behalf of the State, and being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. O'Connor): You are Detective Sergeant Manion, I believe? A. Yes.

Q. Do you know Walter Socolow? A. I do.

Q. When and under what circumstances did you first meet him? A. On the 15th of April, 1921, I arrested Socolow on suspicion of stealing some cigarettes from the F. A. Davis Company.

Q. Where was he taken? A. To detective headquarters.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Ninth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND TENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Witness): 15th of April, 1921.

(Mr. Robinson): We seriously object to it.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Tenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND ELEVENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if

they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

(The Court): We do not see anything yet. It might have something to do with it, go ahead.

Mr. O'Connor): It is just to show association.

(Mr. Grason): Aren't we entitled to know their offer?

(The Court): I think they ought to tell that.

(Mr. O'Connor): We intend to show association, so far as it goes, with Mr. Wolf, that Mr. Wolf represented Socolow at that time.

(Mr. Robinson): In April, 1921, we object.

(The Court): That he knew him I think is admissible, that he knew Socolow I think is admissible, but no details of this occurrence.

(Exception noted.)

Q. (By Mr. O'Connor): Socolow was under arrest at detective headquarters on that occasion? A. Yes.

Q. Did you see Mr. Wolf there after or about that time? A. I did not see Mr. Wolf there on the 15th, but on the morning of the 16th, about half past nine, Mr. Wolf came there.

Q. Representing whom? A. Representing Socolow.

CROSS-EXAMINATION.

Q. (By Mr. Grason): April, 1921? A. Yes.

(Mr. Poe): We want now to offer the warrant that was issued on the 9th of June from the Traffic Court calling forth the charging of John Keller with the unlawful use of an automobile, operating an automobile without a license, failing to give right of way and failing to stop after an accident, failing to give name,

assistance, and so forth. That is the automobile charge that has been emphasized so much as the theft of an automobile.

(Mr. Robinson): You are saying that, you have got to prove it.

(Mr. Poe): We offered it.

(Mr. Grason): That doesn't prove it was not a theft.

(Mr. Poe): You can prove the theft. We offer this paper.

(Objected to; objection sustained; exception noted.)

(Mr. Dennis): He admitted under oath he was wanted for stealing an automobile.

(Mr. Robinson): Your own witness swore to it.

Thereupon, FRANK ALLERS, a witness of lawful age, produced on behalf of the State, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. O'Connor): Your full name, please, to the Court? A. Frank Allers.

Q. Where do you live? A. St. Paul Street.

Q. Now, on August 18th, 1922, Friday morning, at or about 9.25 or 9.30, where were you? A. Park Avenue and Madison Street.

Q. Were you on foot or in a conveyance? A. In a machine.

Q. With whom had you gone to that corner and for what purpose? A. Hart, Socolow, Carey, Smith and myself.

Q. For what purpose? A. For the payroll.

Q. What about the payroll? A. Robbery.

Q. Payroll of whom? A. Well, since then I have found out Hicks, Tase and Norris.

Q. And was that crime perpetrated? A. Yes, sir.

Q. By whom? A. By the ones I just mentioned.

Q. By the persons mentioned. Did you remain in the machine or get out of the machine? A. I remained in the machine.

Q. Who remained in the machine with you if any one? A. Carey.

Q. Who got out if any one? Hart, Socolow and Smith.

Q. Any shots fired? A. Yes, sir.

Q. Who fired them? A. Socolow.

Q. Was the man injured? A. Yes, sir.

Q. Have you since learned of his death? A. Yes, sir.

Q. You surrendered to the police when? A. On the morning of the 22nd.

Q. Which was what morning? A. Tuesday morning about nine o'clock.

Q. Did you make any admission to the police thereafter? A. Some time during the day I did.

Q. On the morning of Wednesday, August 23rd, at or about one A. M. what if anything occurred? A. That is when I admitted my part.

Q. And in that admission did you give the names of those who had perpetrated the crime with you? A. Yes, sir.

Q. Naming the four other men whose names you have given here? A. Yes, sir.

Q. Hart, Socolow, Smith and Carey? A. Yes, sir.

Q. And all of whom have since been tried and found guilty of murder in the first degree, is that correct? A. Yes, sir.

Q. And you went there in what sort of a machine? A. Hudson.

Q. With what characteristics if any? A. 1920, painted dark blue with wire wheels.

Q. You furnished the complete information, as I understand it, to whom on the early morning of Wednesday, August 23rd? A. Mr. Leach and you and Capt. Burns and a few others, I don't just remember who they were.

Q. And do you know if that fact was published shortly thereafter? A. Yes, sir.

(Mr. Parke): I object to that.

Q. You know that, do you? A. Yes, sir.

(Mr. Parke): We object if your Honors please.

(The Court): Overruled; it is already in.

(Exception noted.)

Q. Subsequent to the shooting of Mr. William B. Norris was any receptacle taken from that corner of Park Avenue and Madison Street? A. There was a metal box and bag.

Q. Have you since seen the box? A. Yes, sir.

Q. Do you see it now? A. Yes, sir; tha'st it there (indicating).

CROSS-EXAMINATION.

Q. (By Mr. J. Webster Smith): Allers, were you in Atlantic City on Sunday, August 20th? A. Yes, sir.

Q. Now, you recall the testimony that you gave in the Socolow trial at Towson, don't you? A. Yes, sir.

Q. Did you testify as follows in that case:

"Q. You did tell them the truth, didn't you? A. I didn't tell them the truth until 12.30 that night.

"Q. But you did afterwards tell them the truth, didn't you? A. Yes.

"Q. Why did you do it? A. Because a friend of mine, Heard, opened up on me."

Q. Did you testify to that in the case at Towson? A. Yes, sir.

(Whereupon the State rested, and the defendants, to maintain the issues on their part joined, offered the following testimony:)

DEFENDANTS' TESTIMONY.

Thereupon, WALTER SOCOLOW, a witness of lawful age, produced as a witness in behalf of the defendants, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. Socolow, you have been convicted by a jury at Towson of murder in the first degree and sentenced for life, have you not? A. I have.

Q. Now, I want you to tell his Honor whether or not you made a visit to Mr. Wolf's home on Wednesday night, I think it was the 23rd day of August last? A. I did, Wednesday, August 23rd.

Q. You went there in a taxicab, did you? A. I did, with Mr. Keller.

Q. Went over to Charles and 22nd Streets and got the taxicab? A. Yes.

Q. And went out there with John Keller? A. I did.

Q. Let me ask you, Socolow, about what time did you get out to Mr. Wolf's residence? A. I could not say for sure.

Q. Well, approximately? A. Well, it was getting dark when I left the graveyard and walked to Charles and 22nd.

Q. You walked from the graveyard to Charles and 22nd? A. Yes.

Q. Will you tell his Honors where this grave yard is that you walked from to Charles and 22nd? A. At the end of the eastern section of the city, around Biddle Street or some street like that.

Q. Isn't this grave yard out there on Philadelphia Road? A. No, sir; not the Philadelphia road, further north than the Philadelphia road, I think.

Q. So you walked from the grave yard to Charles and 22nd, and it was getting dark when you left the grave yard? A. Yes.

Q. And you called up from the drug store there a cab company to get a cab up there, didn't you? A. Yes, sir.

Q. And when you got out to Mr. Wolf's was it dark? A. It was.

Q. Was his house lighted with electric lights? A. Part of it was and part of it was not.

Q. Now, I want you to tell their Honors, Socolow, what you did after you got out of the cab, that is where you went in Mr. Wolf's house? A. When I got out of the cab the chauffeur asked me if he should wait, and I told him he was to wait. Keller and I went up on the porch and I rung the bell and a woman came to the door.

Q. You rang the bell. Which side of the house was it that you went up, was it the front— A. The north side.

Q. You drove under the portico there, did you? A. Yes, sir.

Q. Go ahead; you went up and rang the bell? A. A woman came to the door and asked who I was and what I wanted, or

who I wanted to see rather, and I said I wanted to see Mr. Wolf. She said, "Who are you?" And I said, "I would rather not say." But she insisted on knowing my name. I said Mr. Wolf would not know if you told him. She said, "Oh, that is different," and she opened the door and showed us into a room. We waited in that room about ten minutes, and Mr. Wolf came in, and when he see me he said, "My God, boy, what are you doing here?"

Q. Go ahead? A. "I want to tell you my story." He said, "Walk up here," and I walked into the kitchen.

Q. Was Keller with you? A. Yes, Keller was with me.

Q. You walked into the kitchen behind Mr. Wolf? A. Yes.

Q. What happened when you got into the kitchen? A. When we got into the kitchen we started to wash.

Q. When you went out in the hall was there anything said about washing up? A. We were dirty. I think Mr. Wolf suggested washing.

Q. You went to the kitchen? A. Yes.

Q. You and Keller? A. Yes, he asked the lady in there if there was anything for us to wash ourselves with, soap and towel, and some woman seemed to be all excited in there. Mr. Wolf and this woman went out the east end of the house.

Q. While you were in the kitchen? A. Yes, sir; facing—no, it was the south end of the house.

Q. They went out the kitchen door, did they, or how? A. The kitchen door and back of the house.

Q. You washed up, did you? A. We washed up and as we were about getting through washing Mr. Wolf came in again.

Q. You say Mr. Wolf took you back there to wash up, you and Keller, that Mr. Wolf told you to wash up and Mr. Wolf and this lady went out the east end or south end of the house? A. The south end.

Q. Who was in that room, that kitchen? A. A colored woman, seemed to be the cook, and white woman, seemed to be one of the servants, and there was another man sitting there. I could not say whether he was white or colored. If he was a colored man he was a light one.

Q. Did the cook give you anything to eat? A. Mr. Wolf asked the cook to give us something as soon as she was through eating. I told Mr. Wolf I did not want anything to eat unless Keller did, and Keller said he did not want anything to eat. Anyhow we started to eat—Keller could not eat and I do not think I took anything. I could not eat, and Keller I think took coffee. I could not eat and neither could Keller. As soon as we started to eat Mr. Wolf walked out again, walked out in the yard. He just came in there after we got through washing, and just as we sat down to eat he walked out again. Keller was fooling with this cup of coffee and just about when he got through his coffee—I do not think he drank it, Mr. Wolf came in again.

Q. Then what happened? A. He said, "Put your coats on." I never had mine on and I went over and put mine on. We walked ahead of Mr. Wolf this time.

Q. You had taken your coat off when you washed? A. Yes, and did not put it on after washing.

Q. Mr. Wolf came back the second time and told you to put your coats on? A. Yes.

Q. Where did you go? A. Keller and I walked ahead of Mr. Wolf and picked out one of the rooms. It was not a porch. Keller remarked he wished he was on a porch.

Q. Was it a dining room? A. I would say it was a dining room more than anything else.

Q. You went up through the hall to this room and Mr. Wolf told you to sit back there, did he? A. We just picked that room out.

Q. Where was Mr. Wolf then? A. Mr. Wolf came in behind us.

Q. Go ahead? A. He said, "My God, boy, what made you come here?" I said, "I came here to tell you my story and ask for your advice and help."

Q. What did he say? A. No—I said, "I came to tell my story." Later on I told him I wanted his advice. He said—I was just getting ready to tell him when he was interrupted. I think that is when he had a visitor, Detective Hammersla. He went away with Detective Hammersla and he stayed about a half an hour. That is how long he was away. How long he was with Mr. Hammersla I don't know.

Q. Go ahead? A. I had only been there a minute again when I said, "I want your advice," when he was interrupted again.

Q. How was he interrupted that time? A. I think by telephone for three visitors. I do not know which is first, but I think he had a telephone call while his visitors were there, three men, I know it was more than one, I could not say whether it was three or not; I heard them talking, talking about some prohibition charge.

Q. You heard that out in the hall? A. Yes.

Q. Go ahead? A. While Mr. Wolf was gone Keller remarked that he wished he was on the porch.

Q. Wished he was on the porch? A. Yes. Mr. Wolf was interrupted this time and he slid away and during his conversation with these young men he was interrupted by telephone calls and then he came back. As soon as he came back he had another call, a long distance call I think it was, about somebody being shipped, I could hear the conversation about somebody going to be shipped to Baltimore from out of town. I don't know whether it was a long distance call or not but he had to talk very loud to make them hear. He came back, he kept on coming back and going and he would rave at me and he showed me that I was not welcome at his house. I knew that.

Q. During all these interruptions did you have an opportunity to talk to him? A. No, sir; I did not.

Q. Finally, when he came back did you talk with him? A. I said, "Mr. Wolf, I want your advice, I am innocent." He

said, "I cannot have nothing to do with the case. The papers are against the case, the papers are against everybody whose names are mentioned in the case, and I will not have anything to do with it. If you are innocent, give yourself up." He was interrupted at that point again by a telephone and as soon as he went out I said to Keller, "The first chance we get we will get out of here, do you hear?"

Q. What did you tell him that for, as soon as you got a chance you would get out of here? A. I knew I was not welcome.

Q. When he came back again what happened? A. He said, "I cannot do nothing for you, I cannot do nothing for you, the papers are against it and I will not have anything to do with the case," and he said, "Who is this kid, who is he?"

Q. When he said, "Who was this kid," were you about to leave then? A. No, sir. He said this about the kid earlier in the conversation, I forgot to bring that in. He asked who this kid was. He said, it bad enough for you to be hiding; there is no use taking this kid with you, whoever they catch with you they are going to lock up too." I said, "The police are looking for him too," and he said, "What are they looking for him for?" And Keller said, "I stole an automobile." He asked how he knew the police were after him and he said a friend of his told him, and he started to go further into details about the automobile case and he said, "Never mind about that, you can come to my office in the morning and tell me about that if you want to." That is when he was interrupted for a telephone call and I told Keller, I said, "The first chance we get we will get out of here." We put our caps on and stood up instead of sitting down, knowing that we were letting him have the impression that we were about to leave. He came in and said, "I can't do nothing for you, I don't want to have anything to do with the Norris case. I was in it but everybody knows I am out of the case." I said, "I did not know that, Mr. Wolf, or I would not have come to you." He said, "I will not have anything to do with it," and Keller and I started walking and walked to the front door and walked out.

Q. Did you see any ladies there while you were there, Socolow? A. I heard some ladies' voices, more than one. Yes, I seen more than one.

Q. You were in this room, weren't you, and heard Keller's testimony to the Court here about your telling Mr. Wolf that you were guilty and that you got this man Mr. Norris and that he fought with you and that after he got down he kicked you and that you were mad and that is the reason you shot him; did you hear Keller testify to that? A. Yes.

Q. Is that true? A. Positively untrue. The boy thinks he is helping me. He said out in Towson that he thought he was helping me. He did state out in Towson that I never told him I had anything to do with the Norris case. He wanted to bring it out that I told somebody else, and that is the reason he brought it out in Towson, that I told Mr. Wolf. He thinks he is helping me now.

(Mr. Leach): Don't argue the case, answer the question.

(The Witness): I am answering the question.

Q. You left there in this same taxi, did you? A. Yes.

Q. You and Keller left together, did you? A. Yes.

Q. Where did you tell the cabman to take you? A. I could not remember. I wanted to go to some neighborhood and asked Keller what street that neighborhood was near and he told me the street and I told the chauffeur to drive there. I told him to head for East Baltimore and I would tell him the street. Then he started and I told him to go to Orleans, he said Orleans and Pratt and I guess he is right. I told him some street in east Baltimore.

Q. Weren't you going over there to see some friends of yours? A. Yes.

Q. You remember you said in Towson that you wanted to walk up— A. That is when I changed my mind to go to Schroeder Street.

Q. You told him, however, to go to east Baltimore when you left Mr. Wolf's, is that right? A. Yes.

Q. When did you change your mind about going to east Baltimore? A. On the Fallsway. He said Monument Street and I guess Monument Street is right.

Q. You were on the Fallsway, were you? A. Yes, getting ready to turn east.

Q. Getting ready to turn east and go to east Baltimore? A. Yes.

Q. Why did you change your mind there? A. I thought of a friend.

(Mr. Leach): Is that pertinent, may it please your Honors?

Q. Why did you change your mind? A. I thought of a fellow I knew that lived on Schroeder Street and I wanted to go to his house and pass the night.

Q. When did you make up your mind to flee? A. I told this—after visiting a saloon on West Pratt Street.

Q. After visiting a saloon? A. That was after I told the chauffeur to go to Schroeder Street, I wanted to go to about 38 Schroeder, I asked him about where would be the 300 block Schroeder and he told me and I said let me off there at about the 300 block Schroeder Street, and when I got there I looked for the number, I was looking for 38, and Keller sat on the steps and I went up and rapped on the door and there was no answer.

Q. What saloon was this? A. Then I reminded myself that this saloon was close to this place and I just walked around to the saloon. Keller had told me that he had seen fellows that frequented this saloon that said, "If you see Walter we will drive him out of town any time he wants to go." Keller told me this. So I walked around to the saloon to see if it was true. I went around to the saloon and I got some one there to call up for me and the automobile did come that would take me to Washington and I seen that they would take me and that is when I did go.

Q. Why did you flee? A. Why did I flee?

Q. Yes? A. I never had no one to help me.

Q. What did you go to Mr. Wolf's house for? A. For advice.

Q. Did you want him to try your case? A. Yes.

Q. I want to ask you, Socolow, had Mr. Wolf taken your case would you have fled? A. No, sir.

Q. Now, I want to ask you one more question, Socolow; I want you to tell these judges whether or not there was any attempt, or anything said whatsoever, at Mr. Wolf's house by you and Keller in the presence of Mr. Wolf about framing up Allers? A. Positively not. Another thing I forgot to say before was when I got in this automobile to leave for Washington I said goodbye to Keller and I told him, I said, "Now, don't forget to go to Mr. Wolf's office in the morning." He said, "All right, I will go tomorrow morning." I said, "Don't go in at ten or eleven o'clock, go early when he has got nothing to do or he will give you the waits." That is the way I expressed it.

Q. What did you mean? A. I mean if he goes at ten or eleven o'clock he would make him wait all day, but if he would go at nine o'clock before Court started he might give him some time. He knew what I meant.

Q. He knew what that meant, did he? A. Yes.

CROSS-EXAMINATION.

Q. (By Mr. Leach): You were familiar with Mr. Wolf's methods, weren't you? A. I was not.

Q. How did you know whether he would give anybody the waits, or would not give them the waits at a certain hour in the day? A. Any lawyer would, especially a man like him.

Q. Is that the best explanation you can give? A. That is the explanation I can make, that a lawyer like him, as prominent as he was, I knew had not the business in the Court and I knew Court did not start before ten o'clock.

Q. How many times did you have to wait when you went to see Mr. Wolf? A. Once.

Q. You knew Mr. Wolf and he knew you? A. I wouldn't say he knew me, but I knew him.

Q. How many times has he represented you? A. He never did represent me.

Q. Did it take you all that time to study that up? A. Of course, I do not know just what you call representing. I was trying to think.

Q. Now, don't let us split hairs. How many times did you talk to him as your lawyer, or seek advice from him, or communicate with him as an attorney? A. Twice before that.

Q. One was the Gwynnbrook Distillery case and what was the other? A. Not the Gwynnbrook Distillery case, no.

Q. Wasn't he your lawyer in that case and in the cigarette case of F. A. Davis? A. In the cigarette case I wanted a lawyer and I telephoned to his office. The other end asked me who it was that wanted to talk to Mr. Wolf and I said he didn't know me.

Q. How many times did he represent you and what were the occasions? A. He did not represent me at all, I would say.

Q. You told us just now he represented you twice—

(Objected to.)

Q. Or you communicated with him twice as an attorney? A. I communicated with him twice as an attorney.

Q. (By Mr. Grason): You were asked about the Davis case and you didn't finish? A. The day of the cigarette case the detectives had me and they would not let me get a lawyer. I told them I would not talk unless they did. They finally consented.

Q. And you finally got Mr. Wolf? A. Let me tell you how I got him.

(Mr. Grason): Go ahead.

A. I called over to Mr. Wolf's office and I knew that he did not know my name.

(Mr. Leach): I would like an answer yes or no to my question and then the witness can explain. I think that is the rule.

(The Witness): Yes; Mr. Wolf came over. When I called up to Mr. Wolf's office they asked me who I was. I knew Mr. Wolf did not know me. I said, "Send Mr. Wolf over." They said they would. Mr. Dimarco came over first, the gentleman right here (indicating Anthony Dimarco)—and after Mr. Dimarco came over I thought I might as well have Mr. Wolf, I wanted Mr. Wolf.

Q. I wish you would answer my simple inquiry as to how many cases Mr. Wolf represented you in? A. You asked me to answer and explain, and I have.

Q. I don't want the history of your life. The Davis case is one, what is the other case? A. A federal case.

Q. A liquor case? A. Yes. He did not represent me at that time, no.

Q. Didn't he represent you in a vagrancy case at the Northeastern? A. That is the second. He did not represent me in the federal case.

Q. Call it by any number you want to, but the fact is when you got to his house and he saw you he said, "My God, boy, what are you doing here?" A. Yes, sir.

Q. He knew you well enough to make that remark to you, didn't he? A. Yes.

Q. My brother Grason has asked you about what part of the Fallsway, or some other section of Baltimore, you made up your mind to take flight? A. He didn't ask me that.

Q. Or something to that effect, when you were riding in from Mr. Wolf's house? A. He asked me when I first started to flee.

Q. As a matter of fact, you had been in flight ever since the night of the day Norris was murdered? A. A month before Mr. Norris was murdered.

Q. You slept, according to your story at Towson, you slept until ten o'clock on the day of the murder, I know all that? A. I did. I say I was in flight. There were no police officers at 909 Broadway before August 18th.

Q. How did you happen to go with young Keller out to Wolf's, where did you meet him, on Wolf's lawn, or where? A. He was out in the cemetery with me that day.

Q. What were you doing in the cemetery? A. Hiding.

Q. From what? A. From being arrested as a suspect for the Norris murder case, and another warrant was out for me.

Q. Keller had been with you ever since the Saturday after the Norris murder, hadn't he? A. Well, he had and he hadn't.

Q. Off and on, I don't mean continuously? A. Yes, sir; off and on.

Q. He had lived prior to the Norris murder, off and on, there at 909 Broadway, and ran errands for you fellows, didn't he? A. I wouldn't say he lived there.

Q. Well, stopped there, hung up there? A. He came there to sleep some nights.

Q. And he slept in your room? A. He never slept in my room. I never had a room there.

Q. Well, he slept in Smitty's room? A. Well, in one of Smith's rooms.

Q. The room you slept in whenever you slept there? A. Yes.

Q. Do you mean to give the Court the notion, the idea that this boy Keller was anxious, or worked up about the Traffic Court case, this automobile case, in which he was charged with taking Sapperstein's automobile with some other boys and ran into a truck? A. Sir?

Q. Do you mean that that caused Keller to go out to Wolf? A. No, sir; Keller went because I went.

Q. That is what I thought. As I understand you, Socolow, Mr. Wolf was awful busy at that time and just about the time he got through saying, "My God," the telephone would ring? A. Yes.

Q. And sometimes he would say a little more, but not very much more? A. Yes.

Q. And then the telephone would ring? A. Yes.

Q. And if the telephone did not ring some people would come? A. Yes.

Q. And about all you succeeded in doing was to hear him say, "My God," once or twice, and that he would not defend you? A. Yes.

Q. And you had something to eat offered to you, that is about right? A. I heard a little more than that, and I said so.

Q. What else did you hear? A. He said something about Keller's automobile case.

Q. What? A. He said something about Keller's automobile case.

Q. Do you mean this Traffic Court case? A. Not the Traffic Court case, he stole an automobile. The boy knows he stole it.

Q. Whose automobile, Ike Sapperstein's automobile? A. I don't know whose it was, I know he stole it.

Q. With some boys and ran into a truck? A. He had it without permission.

Q. That is the famous automobile case they talk about? A. I know he stole it. I know that five of them were in the car when they had a smash-up, and three of them got away. The two that got caught said Keller stole the car.

Q. That was in June and the car was taken from in front of Benny Lewis' girl's house? A. I do not know where it was taken from. I know he took it.

Q. That was in June? A. I don't know when it was.

Q. When you left that night the last thing you did, out of anxiety for John, was to tell him to be sure and get up and not get the waits around Mr. Wolf's office, to be there early? A. Yes.

Q. Now, what else did you hear talked about over at Wolf's except "My God, what are you doing here?" A. The papers were against the case, the papers were against everybody whose names were mentioned in the case.

Q. What else? A. I have about told all.

Q. That's about all that happened except that you drank a cup of coffee and washed your face and hands and waited while he went to the telephone. Now, do you remember at Towson you said you were there about two hours to two hours and a half altogether? A. I do, from what the taxicab driver tolled me for the trip. Today was the first time I found out the taxicab driver never had a watch. After he was through with the trip I said, "How much do I owe you?" He said, "I am charging you \$4 an hour and it's a little over three hours, but make it three," and——

Q. (Interrupting): Now, answer my question. Do you remember testifying at Towson that you were at Mr. Wolf's house from two hours to two hours and a half? Answer my question yes or no? A. I think I said a couple of hours.

(Mr. Grason): Now, he is entitled to explain.

(The Witness): The reason for my saying that——

(Mr. Leach): I don't care for your reason.

(Mr. Grason): Oh, he can explain.

(The Witness): The taxicab driver took the stand before I did and today was the first time I found out he had no watch, and after we were through with the trip I asked him how much I owed him. He said, "You have been a little over three hours, but I will let it go for three hours," and I said, "How much is that?" and he said, "Four dollars an hour, that's \$12." I judged then it would take me 20 minutes to get out and 20 minutes to come back and the rest of the time was consumed in his house.

Q. Twenty minutes to go and twenty minutes to come back. Now, on page 1569 of the stenographic report of your trial at

Towson, trial of State against Socolow, were the following questions and answers:

(Mr. Dennis): Your Honors, he said he said that. You can't contradict him because he admitted he said it.

(Mr. Leach): He can take care of himself.

"Q. How long were you at Mr. Wolf's house? A. I would say a couple of hours.

"Q. A couple of hours? A. About two hours.

"Q. Two hours? A. About that, or more.

"Q. Then the testimony of Johnny Keller is correct?"

Q. Now that was your testimony in the trial? A. Why don't you read my answer to that last question?

"Q. Why, that boy is crazy, but I say his testimony is correct in that regard. His testimony isn't correct and he isn't correct, but Johnny Keller's estimate of the time that you stayed at Wolf's is correct, isn't it? A. How long did he say we were there?

"Q. Two hours to two hours and a half? A. I won't say his testimony is correct, but I will say we were there two or two and a half hours. I don't know what his answer was."

Q. That's right, that's your testimony, isn't it? A. Yes, sir; that's my testimony.

Q. And crazy or not, you were carrying him around with you while you were hiding after the murder of Mr. Norris? A. If he wasn't crazy he wouldn't went with me.

Q. And you carried him to Wolf's house? A. Yes, sir.

Q. And while he and you were at Wolf's house you mean to tell these five judges trying this case that all that happened during the two hours that you were there was to hear expressions on the part of Mr. Wolf substantially to the effect, "My God, what are you doing here," then an assertion that the newspapers

would be against anybody connected with the case, and another assertion about the boy and the automobile. That is substantially all that happened? A. Keller and I were talking during the time Mr. Wolf wasn't there.

Q. You and Keller had some talk? A. Yes, sir.

Q. You did hear a telephone conversation in which Mr. Wolf said something about bringing a body to Baltimore? A. Yes; something like that, that they were going to ship a body to Baltimore.

Q. John Keller heard the same kind of conversation that morning? A. I don't remember him saying that.

(Mr. Robinson): Keller didn't say that.

(Mr. Leach): He did.

(Mr. Grason): Well, we don't think so.

(Mr. Leach): It's in the record, bring the body to Baltimore, you heard that talk over the telephone, didn't you?

A. Something about bringing the body here.

Q. Yes. Now, where were you and John when you were having these conversations while Mr. Wolf was away answering the telephone and receiving his visitors? A. The same place, dining room, I think it was.

Q. Where was that, the pantry? A. No, sir.

Q. Porch? A. No, sir; it wasn't on the porch.

Q. Where were you? A. Sort of a middle room.

Q. Sort of a middle room? A. Yes, sir.

Q. In between-like? A. Yes, sir.

Q. Where everybody could see you, I suppose? A. No; everybody couldn't seem.

Thereupon, MRS. ROSE KELLER, a witness of lawful age, produced by and on behalf of the defendants, and first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): Now, Mrs. Keller, you live where?
A. 2036 Gough Street.

Q. And your name is Mrs. Rose Keller? A. Yes, sir.

Q. And you are the mother of John Keller, who was on the stand? A. Yes, sir.

Q. How many children have you, Mrs. Keller? A. I have six living children.

Q. And how old is John? A. Seventeen years old.

Q. Now, Mrs. Keller, when John was a child did he have any accident or injury? A. Yes, sir.

Q. What was that accident? A. When John was a little fellow, between three and four years old, he fell off a dryer, a distance of eighteen feet, and I wasn't at home at the time, and they sent for Dr. Valentine, I don't know whether it was the son or the father, and he fixed the child up, and when I came home the blood continually trickled down the side of his face, and I felt that he wasn't just what he should be, and I picked him up, took him to Johns Hopkins Hospital in the accident department, and the doctor that came in said that an operation—

(The Witness, continuing): The doctor said an operation was necessary immediately, so in my presence he rubbed something on the boy's head and shaved the hair off and cut him up there and across here (indicating), and then I left him, and he stayed there for three months with a plaster of Paris cap on his head.

Q. (By Mr. Dennis): He had fractured his skull, had he not? A. Yes, sir. He was home a short while when I taken him back to Johns Hopkins because the water used to run from his mouth all the time, and the doctor, when he came to me, said that if that was all the trouble I would ever have with the boy—

Q. Was there or not a metal plate put on his skull? A. I could not tell you that. The boy's bone was taken out of his temple and that is all I know of it.

Q. A bone was taken out? A. Yes.

Q. Have you regarded him as being normal since?

A. The boy, I cannot say that he was good because he has made his own record, but I always excused for all he did just on that account because I felt the boy was not accountable for what he did.

Q. Mrs. Keller, did you ever know Mr. Harry B. Wolf? A. No, sir; I never met the man in my life until here in the court room.

Q. Did he ever transact any business for you or your family?
A. No, sir; never had no need of him.

Q. You very kindly wrote Mr. Wolf a letter dated September 14, 1922, didn't you? A. Yes, sir.

Q. And in that letter—that is your letter (showing letter to witness)? A. Yes, sir.

(Mr. Poe): On what theory do you think this is admissible, Mr. Dennis?

(Mr. Dennis): It is admissible on the theory—it confirms the witness in circumstances under which he testifies in this case, and we would like to offer the letter and would like to read it.

(The Court): Written by the witness to Mr. Wolf?

(Mr. Poe): We object to it.

To which question the State objected, but the Court sustained the State's objection, and refused to permit said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Eleventh Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND TWELFTH BILL OF
EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, and the following evidence given:

(Mr. Dennis): We offer this letter for the object and purpose of showing that we knew nothing at all about this boy or his family or connection or associations until this lady very kindly volunteered information to Mr. Wolf which we think would be of interest to the Court, apologizing for the conduct of her son, expressing regret that she had brought any trouble on Mr. Wolf. That is the character of letter it is.

(Judge Stanton): She is on the stand to tell you all that now.

Q. Why did you write this letter to Mr. Wolf that I hold in my hand and have shown you? A. Well, I felt that the boy could not be relied on and I did not want him to injure any one if I possibly could prevent it. I went to Mr. Leach and tried to explain it to him and I found he would not pay no heed to him, as I told him I did not want the boy's word taken against anybody.

Q. Why didn't you want his word against anybody? A. I felt the predicament the boy was in. He only had one side to talk to him, and I felt if I could have talked to him myself I probably would have felt that he would tell the truth, but knowing the condition he was fixed in I could not feel that he would stand for the truth. I know he would say anything that would help him, I felt confident.

Q. Did you tell Mr. Leach that your son could not be relied upon? A. I did; I told Mr. Leach concerning the operation and all that.

Q. How often did you go to see Mr. Leach? A. I went shortly after John got in trouble, then I came back to him when the charge of conspiracy was laid against him.

Q. What was your conversation with Mr. Leach on those occasions? A. Well, the first time it was not anything in particular only that I wanted to see the boy.

Q. Did Mr. Leach let you see him? A. Yes, sir.

Q. In the presence of any one? A. I went over to the Central Police Station and Mr. Hurley brought John down into one of the rooms in the station house to me the first time and then the next time I seen him, I went up into the cell, and I have been there once since, but each time it would be either Mr. Hurley, and one time it was Mr. O'Connor, and twice with Mr. Hurley.

Q. You have never seen the boy privately since he was arrested? A. No, sir.

Q. When did this boy leave home? A. 8th day of March.

Q. Has he been back since? A. Once when he came and told me he was going away on board a ship and I gave him a valise.

Q. You have had this boy committed for incorrigibility have you not and Father Wheeler? A. Yes, sir.

Q. Why did you do that, Mrs. Keller? A. Well, I tried most any way that I could to see if some one else could do better than what I did.

Q. What had been your experience with him? A. In the home the boy didn't give me any direct trouble. Of course it was when he got outside.

Q. What did he do outside? A. Well, he got into trouble because it would come back to me lots of different thing that he did.

Q. What sort of trouble was he getting into or did he get into? A. Well, I just could not tell you. Of course any time that he did wrong he was always picked up for it.

Q. Picked up by the police, do you mean? A. Yes.

Q. You told me an incident one time about his attempting to scare two young ladies at your house, do you recall that? A. Yes. The young ladies slept with my daughter that night—

(Mr. Poe): Yes, we object to it.

To which question the State objected, but the Court sustained the State's objection, and refused to permit said testimony to be given in evidence, and the question asked and answered whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Twelfth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND THIRTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, and the following evidence was given:

CROSS-EXAMINATION.

Q. (By Mr. Leach): You know that Johnnie was discharged from Johns Hopkins Hospital after the operation and pronounced well, don't you? A. No, sir; I taken him back a short while afterward and he had water dribbling from his mouth all the time.

Q. I did not ask you that, I asked you if you did not know that he was discharged from the hospital well? A. If he was well when he left there I would not have occasion to take him back.

Q. Do you remember an occasion when some one came to Mr. Wolf's office and asked that you or your husband come up to his office, was that before or after you wrote this letter to Mr. Wolf? A. I could not tell you that because I just do not remember. I am not much at keeping dates of things and I have had my mind pretty well occupied.

Thereupon, LEO KELLER, a witness of lawful age, produced on behalf of the defendants, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): What is your name? A. Leo Keller.

Q. Where do you work? A. I work for the city.

Q. What department? A. Sanitary.

Q. You are the father of Johnnie Keller who has been in this case? A. Yes.

Q. Tell us what sort of a boy your son is and has been in reference to his reliability? A. I am the father of six children and he is the only one who has caused me any trouble.

Q. What trouble has he caused you?

To which question the State objected, but the Court sustained the State's objection, and refused to permit said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Thirteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND FOURTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, and the following evidence was given:

Q. Do you know his reputation for truth and veracity in the neighborhood in which he lives, and the vicinity in which he lives? A. I know his reputation is bad.

Q. How about his reputation for truth and veracity? A. Bad.

Q. Would you believe him on his oath, Mr. Keller? A. No, sir.

CROSS-EXAMINATION.

Q. (By Mr. Leach): Do you remember the time that somebody came and asked you to come up to Mr. Wolf's office? A. Yes.

Q. Do you remember about when that was; was that in the early part of September or the latter part of August? A. I just forget when.

Q. Wasn't it on August 26th, on a Saturday, wasn't that the day of the week, two days after little Johnnie had been locked up? A. I think it was on Saturday, but what date it was I do not know.

Q. That was while John was at the Central Police Station, was it not? A. Yes.

Thereupon, HARRY BAUER, a witness of lawful age, produced on behalf of the accused, having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Smith): What is your full name? A. Harry Bauer.

Q. Where do you live? A. 521 S. Washington Street.

Q. Do you know John Keller? A. I do.

Q. How long have you known him? A. All his life, I guess.

Q. If you are familiar with his general reputation for truth and veracity in the community in which he lives, please state whether or not it is good or bad.

A. Very bad.

Q. Would you believe him under oath? A. I do not know. That is hard to say, but as to his truth that is hard to believe.

Q. (By Mr. Smith): You are in the moving picture business, aren't you? A. Yes.

Q. Where is your place located? A. At the time of this trouble I was at the Leader Theatre, 248 S. Broadway.

Q. Are you the gentleman that had a little trouble with Johnny Keller on account of some moving picture tickets?

To which question the State objected, but the Court sustained the State's objection, and refused to permit said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Fourteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND FIFTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, and the following evidence given:

A. Yes.

CROSS-EXAMINATION.

Q. (By Mr. Poe): When did you first hear Johnny's reputation for truth and veracity discussed? A. Well, I have discussed it with everybody going in and out of the theatre ever since he has been arrested, and I have known him all of his life.

(Mr. Poe): If it has only been since the arrest, we ask that the testimony be stricken out.

(The Witness): This trouble I have been speaking about, about breaking into our place, was long before he was ever arrested in this case.

Thereupon, JOSEPH KELLER, a witness of lawful age, produced on behalf of the accused, having been duly sworn, testified as follows:

DIRECT EXAMINATION.

- Q. What is your full name? A. Joseph Keller.
- Q. Where do you live? A. 1922 E. Fairmount Avenue.
- Q. Do you know Johnny Keller? A. Yes.
- Q. Are you related to him? A. Yes.
- Q. What relation do you bear to Johnny Keller? A. Uncle.
- Q. How long have you known him? A. All of his life.
- Q. Are you familiar with his general reputation for truth and veracity in the community in which he lives? A. Yes.
- Q. Please state whether or not that general reputation for truth and veracity is good or bad? A. Bad.
- Q. Would you believe him under oath? A. That is hard to say.
- Q. I beg your pardon? A. I said that is hard to say.
- Q. It is hard to say, what do you mean by that answer? A. It is hard to say if I would believe him under oath.
- Q. Let me ask you this: Suppose I put the question this way: would you believe him under oath as to a matter in which you were interested? A. No, sir.

Thereupon, WILLIAM H. MATSON, a witness of lawful age, produced on behalf of the accused, having been duly sworn, testified as follows:

DIRECT EXAMINATION.

- Q. (By Mr. Smith): What business are you in? A. In the near beer saloon business.

- Q. Where do you live? A. 929 N. Belnord Avenue.
- Q. Do you know John Keller? A. Yes.
- Q. How long have you known him? A. Near all of his life.
- Q. Are familiar with his reputation for truth and veracity? A. I am.
- Q. State whether or not it is good or bad? A. Bad.
- Q. Would you believe him under oath? A. I do not think I would.

Thereupon, MATTHEW JOHN MATSON, a witness of lawful age, produced on behalf of the accused, having been duly sworn, testified as follows:

DIRECT EXAMINATION.

- Q. (By Mr. Smith): Where do you live? A. 2045 East Fairmount Avenue.
- Q. What is your business? A. Clerk.
- Q. Do you know John Keller? A. I have known him all of his life.
- Q. Are you familiar with his general reputation for truth and veracity? A. I am.
- Q. State whether or not it is good or bad? A. Bad.
- Q. Would you believe him under oath? A. No, sir.

CROSS-EXAMINATION.

- Q. (By Mr. Leach): Where do you clerk at? A. Sir?
- Q. You say you are a clerk, what do you clerk at, what do you do? A. I am a clerk.

Q. What kind of a clerk? A. 1918 Gough Street, malt and hops.

Q. Malt and hops, ha, ha, that is all I want to ask you, sir.

Thereupon, MISS GRACE KELLER, a witness of lawful age, produced on behalf of the accused, having been duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Smith): Where do you live, Miss Keller? A. 2036 Gough Street.

Q. Are you a sister of Johnny Keller? A. Yes.

Q. Are you familiar with his general reputation for truth and veracity? A. Yes.

Q. Please state whether or not it is good or bad? A. Well, John has been a bad boy—

Q. I am talking about his reputation for truth and veracity, is that good or bad? A. Why, it is bad.

Thereupon, LEO KELLER, JR., a witness of lawful age, produced on behalf of the accused, having been duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Smith): Where do you live, Mr. Keller? A. 2036 Gough Street.

Q. Are you a brother of John Keller? A. Yes.

Q. Are you familiar with his general reputation for truth and veracity? A. Yes.

Q. State whether or not it is good or bad? A. Bad.

Thereupon, MICHAEL J. GLENN, a witness of lawful age, produced on behalf of the accused, having been duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Smith): Where do you live? A. 339 S. Chester Street.

Q. What business are you in? A. Plumbing business.

Q. Do you know Johnny Keller? A. Yes.

Q. How long have you known him? A. Seven years or more.

Q. Are you familiar with his general reputation for truth and veracity? A. Yes, sir.

Q. State whether or not it is good or bad? A. I think it is bad.

Q. Would you believe him under oath? A. Well, I would not say I would believe him under oath, because I think he is untruthful.

Q. Would you believe him under oath in a matter in which he, John Keller, was interested? A. No; I would not.

CROSS-EXAMINATION.

Q. You are a plumber? A. Yes.

Q. You run a place? A. Well, no sir; I work for somebody.

Q. Who do you work for? A. Johnny Eisenberg.

Q. Where is his place? A. 225 S. Chester Street.

Q. When was the last time you saw John Keller? A. Well, I seen him, I think it was, in July.

Q. Who talked to you about coming up here? A. Sir?

Q. Who talked to you about coming up here? A. Well, nobody as I know of.

Q. You just got a summons of a sudden and came up? A. That was all, yes, sir.

Q. Do you know that malt and hops clerk that was on the stand? A. Well, I know him by sight, that is all.

(Mr. Leach): I thought you did. Step down; that is all.

Thereupon, MARTIN GLENN, a witness of lawful age, produced on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Smith): Where do you live? A. 339 South Chester Street.

Q. What business are you in? A. Painter.

Q. Do you know John Keller? A. All my life.

Q. Are you familiar with his general reputation for truth and veracity? A. Yes, sir.

Q. State whether or not it is good or bad? A. Bad.

Q. Would you believe him under oath? A. No, sir.

Thereupon, DR. GEORGE HELLER, a witness of lawful age, produced on behalf of the defendants, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Smith): Your full name, please, Doctor? A. George Heller.

Q. And where do you live? A. 1937 Gough Street.

Q. Practising physician in Baltimore City? A. I am.

Q. Also one of the moving picture censors of the State of Maryland, aren't you? A. Yes, sir.

Q. Formerly a member of the City Council? A. Yes, sir.

Q. Do you know John Keller? A. I do.

Q. How long have you known him, Doctor? A. Over ten years.

Q. Are you familiar with his general reputation for truth and veracity in the community in which he lives? A. I think I am.

Q. State whether or not that is good or bad? A. Bad.

Q. Would you believe him under oath in a matter in which he, John Keller, was interested? A. I would rather want to find out or investigate if it was a matter of great importance before I would take his word.

CROSS-EXAMINATION.

Q. (By Mr. Poe): Before you would take his word, you say? A. Yes, sir.

Q. Now, Doctor, suppose it was something he was not himself personally interested in, what would your opinion be? A. Mr. Poe, I said matters of importance.

Q. I know they asked you about a matter in which he was personally interested. Now, I ask you whether, in your opinion, you would believe him under oath as to a matter in which he is not personally interested? A. The boy's reputation in the neighborhood—

Q. (Interrupting): Can't you answer the question first? A. Mr. Poe, my information doesn't come from direct experience with the boy.

Q. It wouldn't be admissible unless it came from what you heard other people say? A. From my connection with the

family. I have attended the family for at least ten years, if not longer.

Q. It is only from what you heard the family say that you base your opinion on? A. No.

Q. You base it on what you heard the people in the community generally say? A. Yes.

Q. Now, I ask you, can't you answer my question whether or not you would believe the boy on oath as to matters in which he is not personally interested? It is a very simple question. Can't you say yes or no? A. I can't connect what you mean. Under oath I would really believe him on matters in which he is not personally interested.

Q. You answered the question when they asked you whether you believed him under oath in matters in which he was personally interested. Now, is there any difficulty in understanding my question? A. I said matters of importance.

(Judge Stanton): Why not take a concrete example. In a case like this here, today, would you believe him under oath? You are not personally interested in this case, are you? That's what they mean?

(The Witness): Your Honor, I can't connect the question Mr. Poe put to me under direct examination with the question that was put to me by the defense.

(Judge Stanton): Here is an illustration; Keller was charged with some crime and was testifying. That would be a matter in which he was personally interested.

(The Witness): Yes.

(Judge Stanton): But if he was called as a witness between two people that would not connect him with the outcome of the case—

(The Witness, interrupting): I can't see that I can answer that any more definitely than I answered the first question.

(Mr. Smith): That is to say you wouldn't believe him?

(The Witness): I said in my first answer "in matters of importance." In matters that he is not virtually interested I can't see where it would make any difference.

Thereupon, CHARLES H. BUCK, a witness of lawful age, produced on behalf of the defendants, having been first duly sworn, was examined and testified as follows:

Q. (By Mr. Smith): Where do you live, Mr. Buck? A. I now reside at 109 South Wolfe Street, formerly 2057 when I knew him.

Q. What business are you in? A. Inspector of the Columbia Grafonola Company.

Q. Do you know John Keller? A. Yes.

Q. How long have you known him? A. For eight or nine years.

Q. Lived in the same neighborhood? A. Right across the street, tend store there.

Q. State whether or not you are familiar with his general reputation for truth and veracity in the community in which he lives? A. Bad.

Q. I asked you to state, are you familiar with it? A. Yes, sir.

Q. State whether it is good or bad? A. It is bad.

Q. Would you believe him under oath? A. Well, no, sir.

Thereupon, WILLIAM MUELLER, a witness produced on behalf of the defendants, after being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Smith): What is your full name, Mr. Mueller?
A. William Mueller.

Q. What is your business or occupation? A. Chief probation officer of the Supreme Bench.

Q. What was your occupation before you obtained that position? A. Probation officer of the Juvenile Court.

Q. For how many years? A. About fourteen years in the Juvenile Court and two in the Criminal Court.

Q. Do you know John Keller? A. I have known him about five years.

Q. Did he come under your supervision as probation officer of the Juvenile Court? A. During nineteen hundred and seventeen, nineteen hundred and eighteen and part of nineteen hundred and nineteen.

Q. Now, tell the Court what you know about John Keller, with reference to his general reputation in the community for truth and veracity?

Q. (Mr. Smith): Have you investigated that question? A. I have.

Q. Well, go ahead; give the testimony.

(Mr. O'Connor): Since this offense or prior?

A. Before this offense—not since.

(Mr. O'Connor): His reputation for truth and veracity.

(Mr. Smith): After I am through examining the witness, I will turn him over to you.

A. During the time I had him on probation——

(Witness, continuing): Now, when I had him on probation and during the time he was in the Juvenile Court, I found that his reputation was bad.

(Mr. O'Connor): That is not what you were asked.

A. As to truth and veracity.

(Mr. Smith): Will you please not interrupt? I will turn the witness over to you in due course; be composed and you will have him.

Q. When you say his reputation is bad, what do you mean? A. His reputation as to truth and veracity is bad.

Q. Now, what investigation did you make into Keller's reputation; just tell the Court everything you know about it? A. I visited his home, spoke to the school attendance officer, spoke to the officer down there and spoke to his mother a number of times, and also spoke to the people of St. Mary's Industrial School while he was there.

Q. Now, what criminal record, if any, has John Keller?

To which question the State objected, but the Court sustained the State's objection, and refused to permit said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Fifteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND SIXTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, and the following evidence given:

Q. Have you in your possession the original of his record in the Juvenile Court? A. I have his original probation record here.

Q. His original probation record? A. Yes, sir.

(Mr. Smith): May it please the Court, we would like to offer in evidence that record?

(Mr. O'Connor): We object to the offer.

To which question the State objected, but the Court sustained the State's objection, and refused to permit said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Sixteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND SEVENTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, and the following evidence given:

Q. (Mr. Smith): Who kept that record? A. I kept the record.

Q. As a part of your official duties? A. Yes, sir.

(Mr. Smith): We would like to retender the record, may it please the Court?

(Judge Gorter): Do you object?

(Mr. O'Connor): We object.

(Objection sustained; exception noted.)

To which question the State objected, but the Court sustained the State's objection, and refused to permit said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Seventeenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND EIGHTEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, and the following evidence given:

Thereupon, HARRY B. WOLF, one of the traversers, taking the stand as a witness in his own behalf, after being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Robinson): Mr. Wolf, you reside in Baltimore?
A. Yes, sir.

Q. You are a member of the bar? A. Yes, sir.

Q. How long have you been a member of the bar? A. Twenty-one years last August.

Q. And during that time you have been actively engaged in the practice of your profession? A. Yes, sir.

Q. In criminal and civil or both or either? A. All kinds, sir.

Q. Were you born in Baltimore? A. Well, there is a little dispute about it. Some say I was born on the big Gunpowder in Baltimore County, but I have been here practically all my life.

Q. Have you lived here during all the time you have been a member of the bar? A. Yes, sir.

Q. Mr. Wolf, you, of course, know of the horrible tragedy that occurred in August when a Mr. Norris was shot in Baltimore; do you recall that incident; I think it was the eighteenth of August? A. It was on Friday; I remember it, sir.

Q. After that shooting, did you have any talk or take any interest in trying, with the police department—take any interest

in trying to ferret out who committed the crime? A. Now, if you will permit me, I will try to tell the whole thing. This is the first chance I have had to present the whole situation to the Court, and I would like to do it.

(Witness, continuing): On the Friday morning of the murder of Mr. Norris, I was over in the post office building, in the marshal's office, waiting to be called before Commissioner Supplee. My recollection is Mr. Kane was in the room there and told everybody about the terrible murder that had been committed uptown. We were all shocked, coming, as it did, as a crisis to a number of similar crimes that had happened around Baltimore; and Mr. Kane related in some little detail the horror of the thing. I then walked in before the commissioner—

(Witness, continuing): I mentioned to Commissioner Supplee what a horrible thing it was, and went on to tell him my impression of the thing—about the killing of a man on the highway—what a terrible thing it was. That afternoon late—I don't recall the hour, but towards late in the evening—I usually take the hour, about half past six, to go home—usually have dinner around seven, but try to leave as near half past six as possible. That evening, on Friday, I had gotten word that two men had come to town the night before or, rather, the early morning of Friday, and the details were explained to me. I said, That looks like a very important tip. And I walked over to General Gaither and I said, General Gaither, anything I can do for you in this thing, to help you, I certainly will do it; I think it is a terrible thing, that has happened, the killing of a citizen in that fashion—a brutal thing—and anything I can consistently do for you, bearing in mind I am a criminal lawyer and, if I hear anything in a professional way, I cannot disclose it, but, if I can help you in any way consistently, I will do it. I then related this thing to him; I told him I had gotten information that some men had come into Baltimore on Friday morning around one o'clock; that is to say, one o'clock following Thursday night, midnight—is that clear to your Honors, what I mean by that?

(The Court): Yes.

(Witness, continuing): And that they had gone to the Winton Hotel about one o'clock in the morning; there were five or six or seven—I don't recall exactly—the number was then fresh

in my mind—and I gave General Gaither the names as they had been given to me; and I gave him the two cars; my recollection is one was a Daniels car and one was a Lincoln—two high-powered cars; and then I told him that I had also been told in that connection that the men had left the Winton about two o'clock, had gone down to the Emerson, had registered at the Emerson and had slipped out of there quickly, somewhere around the early part of the morning—around nine or ten. Well, that fitted in my mind so closely with what I had been told about the murder, my information being that Mr. Norris had been murdered at Park Avenue and Madison Street around half past nine and, in addition to that, it being the very Friday in question, of the murder, the same morning following the visit of the men to the Winton, the men were seen going out the Bel Air road at a terrific rate, and that they were the same two cars; that Mr. Bletzer had seen them, he coming from Philadelphia towards Baltimore; and he mentioned when he got to the Winton what he had seen, and they told him about these men being there—that impressed me as being a very strong clue. I said to General Gaither, That looks to me like a real tip. I said, You recall the Cugino case; I said, You remember that six men came down here and, in broad daylight, went up there on Charles Street, took a great big Belgian block and broke out a jewelry window, and one of them stood on the running board and shot a pedestrian; that case was tried in this very court room. I said, It looks to me almost the same thing; it was a desperate job; I don't think any local boys did that, because it is too desperate for our boys. I knew we had a lot of boys around town, doing small, mean, petty things, but not killing people—or something to that effect. That is my recollection. He said, That looks like a tip. I said, Don't send out a couple of mutts on this thing, but a couple of live wires on the thing—fellows who can dig. I went home that night and, when I got home around—I don't recall the exact hour—somewhere around nine o'clock—I don't recall the time very well with reference to that—and Mr. Raymond Tompkins was there; that is how I came to see Mr. Tompkins. He had a young man with him; I do not know his name, but I do know Mr. Tompkins. He said, Now, Mr. Wolf, the paper asked me to come out here to enlist your help in unraveling this thing. He then went on to recite what I have also told you—the horror of the crime. I said, I thoroughly agree with you; it was a terrible crime—the idea of a citizen leaving home in the morning and being shot down without any chance to get home again. He said, Will you help?

And I said, Certainly. Then I related to him what I had already told General Gaither. I said, How does that tip I gave General Gaither sound to you? He said, That looks good. I said, I will tell you, Tompkins; you gentlemen are pretty smart—you newspaper men, when it comes to tips to help the police; everybody pull together. He said, All right. Then I said, I tell you what you do. And we sat down together. I said, You go to the Emerson, talk to the night clerk, get descriptions of the men—I gave the names as I had them—I don't recall the names now—I don't remember the names of the men that I gave to General Gaither or Mr. Tompkins, but I remember the name General Gaither mentioned yesterday; I recall that is one of the names I mentioned to General Gaither. I said, Mr. Tompkins, will you go down to the hotel, talk to the night clerk, ask him to give you descriptions of the men, get all details and find whether they had any box or bags—find out all you can from him—find out what time they came and what hour they left. He willingly consented to do it; he said, That is fine—thought he would do it. I also said, When you get there, talk to the maid and see whether they left anything in the room to indicate who they are, and so on. Well, he said, he would do that. So that night, I had Leverton to come out. I said, Now, Cap—I said, Let me tell you something. I said, Get out and hustle; this is an important thing; don't be asleep; get busy; you have brains; you have some real backbone; now, step out. And I told him what I had related to Mr. Tompkins and to General Gaither. I said, Hustle now; jump out; you know Bletzer and you know McLaughlin; go to see them all; maybe they will give you a lead that will help. That was Friday night. The next day, Saturday, Mr. Tompkins, in accordance with our understanding, came in to see me. Tompkins could come in and Sherwood would come in; I cannot tell who came in first or who came in last; but they came in to visit me daily, and they would say, What information—has anybody given you a tip? And I would tell them as it occurred to me. On Saturday morning I had a call to go to the Central Police Station. When I got there—I am speaking about the Saturday following the Friday of the murder—when I got there Saturday morning there were a great many people locked up on the Norris matter; the place was just packed with people. I had been asked to go up there and look after two boys by the name of Felcher, they were in the first cell facing the hallway that leads from the main assembly room back to the lockup. I asked permission to see them, which was granted. I said, Felcher, what

about this thing? He said, I am absolutely innocent, Mr. Wolf; it is only a pickup; I had nothing to do with this thing. I said, Tell me the truth; if the police say they have anything on you, I will not represent you. After possibly half an hour or an hour, two of—the two Felcher boys were released. While talking to the two Felcher boys, I heard a voice in the next door cell, Would you help me out, too? I said, Who are you? He said, Carey. I said, What did you have to do with it? He said, I am absolutely innocent—just picked me up for nothing. I said, All right, if that is so, all right, but, if they tell me they have anything on you, I won't represent a damn one of you. Then a voice called me, my recollection is Smith was on the woman's side; there is a partition between the two rows of cells. And on the other side I heard a voice, Is that Mr. Wolf? He said, Come over to see me. And I went over to see him. And Smith looked like he had been on a spree for a week—looked like a typical rummy—looked like he was soaked through with rum. I said, What about it, Smith? He said, I wasn't down there, Mr. Wolf. He ran a still or was working at a still, and he looked the part. So I told him exactly what I told Carey. Then Lewis called over, and I told Lewis the same thing. Then a man named Jenkins had been arrested, and he asked me to help him, and I told Jenkins the same thing. I left the station house then, and up from Saturday until, my recollection is, Tuesday or Wednesday—I am not clear on the day—I went there each day and said to him, Cap, is there anything doing about these men yet? He said, No, nothing yet. I said, Mark you, now that Allers is held here for investigation, everybody arrested, so far as I knew, was charged and held for investigation—no charge of anything against them. My recollection is, on Tuesday or Wednesday—I am not sure about the day—I got disgusted running around every day—asked them just what they were going to do about it. I said, Captain, how about it? If you have anything on these men, say so; don't make me run around every day; I am tired of coming around. He said, Wait a little while. In a short time, I don't recall how long, Mr. Herbert O'Connor came around. I said, Herb, how about this thing; if you are going to hold these fellows, hold them; if not, let them go; don't make me come around every day. And he went inside and talked with Captain Hurley. I said to Mr. Samuels; I was standing in the big assembly room; Samuels had his little baby with him. Mr. O'Connor said, If we don't get anything on them by Monday, I will let them go; will that do? I said, Yes, that is all right. And I left. From that day, I never went to see those men or any of them, except Jenkins.

whom the police released after they had held him five or six days—the exact number I don't recall. Each day, as I told you, Tompkins would come and Sherwood would come, both would come in the same day. I was at my home on Wednesday night; we had gotten home very late that night, because the folks had been down to Sandy Beach; I have a little bungalow on the Chesapeake, and during the past summer the folks had been spending quite a number of days down there. They got back rather late, and we went home.

Q. (Mr. Robinson): By folks you mean your family? A. Yes, sir.

Q. You mean Wednesday night? A. Yes, sir; Wednesday night. On Wednesday night, we got home rather late. In the party were Mrs. Wolf, my wife, my sister-in-law and my mother-in-law, Mrs. Cohen, Miss Goodman, the baby, the chauffeur and myself. On the way out, we let Mrs. Cohen home. She lives almost alongside the Maryland Country Club, I think on Forrest Street or Forrest Place—some place like that. We got home somewhere in the neighborhood of eight o'clock—I don't recall the time—and after the women had washed up, they came down to dinner and we were eating dinner, and, while we were in the midst of dinner, the doorbell rang, and my sister-in-law, Clara, was sitting nearest the front door; that is to say, the hallway—will you let me have my pictures there, if you don't mind? Joe, you have them. Would you mind if I show you these pictures in advance; would you mind if I come around there and point them out to you?

(Witness, continuing): I just want to point out to you, if you don't mind. Do you all want to see them?

(Witness, continuing): I would like to tell it all, if you don't mind. Then, after we had eaten dinner or, rather, while we were sitting at the dinner table, the bell rang, and my sister, Clara, said, Well, I will answer the bell. I speak of her as sister, but sister-in-law is really the correct way.

Q. (Mr. Dennis): What is her last name? A. Clara Cohen. She said, I will go to the door, and she went to the side door. That is this door here (indicating).

(Judge Stanton): When you get that, mark that number one, that number one is the picture with the side door.

(Judge Gorter): It is on the north side?

(Witness): Yes, sir; north side. That is alongside of the driveway, sir. She came back and she said, Two terrible looking men, or, two wild looking men. I said, All right, let them sit down. She said, Well, I will put them in the reception room. I said, All right; come on and sit down. And we sat there eating dinner. I don't recall what part had been served, but we sat there quite some while. After a lapse of twenty-five, twenty minutes or thirty minutes—I don't recall the exact time, we got up from dinner. After eating dinner, we all sat around, as we always do, and this night we sat around talking, telling what a nice time they had had, and what fun the baby had had in the sand down there. After we got through, taking our own time about it, we all got up to go to the library, as we always do. My mother-in-law, my sister-in-law and Miss Goodman, who had been there with us to dinner, went ahead of us out through the hall—can you see from where I stand—I would like to point out to you. This is a very wide doorway (indicating). It is a double house, to begin with—rooms on both sides of the hall. This (indicating) is the doorway, a wide doorway, of the dining room. We all came out of the dining room here (indicating), my mother-in-law, sister-in-law and Miss Goodman preceding my wife and myself. They walked out of the dining room into the big hallway—

(Mr. Robinson): Call that picture number two.

(The Clerk, Mr. McKindless): You have the hallway right in front of you there.

(Witness): I beg your pardon—excuse me. This (indicating) is the big hallway. As we came out, the women folks, that is to say, the three ladies preceded Mrs. Wolf and I and went around into this room here (indicating): This (indicating) is the library. The library faces the reception room. In other words, these two rooms face. It is a double house.

(Judge Gorter): On the north or south side?

(Witness): The library is on the south and the reception room on the north.

(Judge Gorter): The same side of the house as the dining room?

(Witness): Yes, sir. These pictures are just how it was the very night the visit was made to my home.

Q. (Mr. Robinson): The dining room and library are on the south side? A. Yes, sir.

Q. (Mr. Poe): When were the pictures taken? A. I don't recall, sir; but I should say somewhere in the neighborhood of a month or three weeks ago.

Q. (Mr. Robinson): Mr. Wolf, not to break in on your story, were the lights lit at the time in your house? A. Yes, sir; everything wide open.

Q. In all the rooms? A. Everything. I am sure, if your Honors will let me pass over these pictures to you at one time, you will follow my story a little more consecutively; I could point out to you as we go along step by step.

(Judge Stanton): It could not be any clearer up to the present.

(Witness, continuing): I will demonstrate it in a moment, sir. The ladies, the three of them, turned to the left towards the library; my wife and I, just as we got abreast of the reception room and the library—I don't remember exactly—my wife left me to go in the library with the other ladies, and I went towards the reception hall. That has also a big, wide, spacious doorway. And as I got towards the doorway—this space here (indicating) represents the doorway of the reception room—as I got about here (indicating)—we had been talking coming through the hall—Socolow and Keller came towards me, and, as I saw them, I said—I could hardly catch my breath for a second—I said—pardon my language—

(The Court): Go ahead.

(Witness, continuing): I said, What in the hell are you fellows doing here; how did you get here—or words to that effect. I don't remember the exact language—I saw I was losing my head every second—my heart was thumping faster than it ever had in my life before—they were disheveled. And by that time I turned and there was my wife at my side, and she was shaking all over. I said to myself real quickly, Keep your head,

don't lose your head; keep cool; because I made up my mind I was not going to represent them and was going to tell them—I didn't know how it would hit them. The window was open and the door was open; the only door that was barred was the screen door in front and the screen door to the south. It only took seconds, but it seemed like minutes. I looked at them and said, I tell you, fellows, it looks like you haven't been washed; you fellows walk back and wash up, and I pointed, I think, if you will let me have that picture—may I have it, please?

(Picture handed to the witness.)

(Witness, continuing): I want the one leading to the back part of the house—here (indicating) is the hallway. I said, pointing to the back, You fellows go back here and wash up. I took my wife by the arm, and she went ahead of us; she was shaking all over. I said, For God's sake, keep cool; this is not time to get excited. There is a doorway right back of these pillars (indicating) that leads into this little hallway here (indicating) that goes in the kitchen—a very narrow hallway. That (indicating) is the reception room. That (indicating) is the big hallway as we went on through. So the men went in the kitchen. I said to my wife on my arm, Keep cool. I said to the cook, Florence, I said, You don't mind these fellows washing up, and giving them a little bite to eat. They were moving all the time from the kitchen to the back door. My wife said, They are the men, they are the men. I said, For God's sake, honey, please be still; don't get excited; don't get hysterical; please don't. I was trying to bolster her up, because she was terribly wrought up over it. I said, Keep cool. She kept repeating and repeating. I said, Don't get excited. We walked leisurely down to the kitchen door, down the back steps, and went to the gardener's house, and I went back there and back again trying to calm her. I went back in the kitchen. By that time, Socolow and Keller were on their feet. I said, You fellows go in here (indicating): This (indicating) is looking from the kitchen and looking through the hallway here (indicating). Here (indicating) is the door leading to the dining room. Here (indicating) is the dining room. This (indicating) is the doorway leading into this room. I said, You fellows go ahead here. And as they went through I said to the colored man who was there that night, who had come back from his vacation that night—I said, George, now, listen; those are two desperate men,

and if you hear the slightest kind of trouble, come in and give me a lift quick. He said, All right. I went through the dining room. I had just about gotten in through the door—the bell had rung in the meantime—I had just about gotten in the dining room, coming in the hallway from the kitchen, this way. I had gone in to tell these fellows what I was going to say to them. My sister-in-law said, Mr. Hammersla wants to see you. I had just gotten over one fright in the back with my wife. I said, Now, here is where it starts; Harry is a well known figure in the department; they must know his name. I said, Here is where they start. I figured they would be shooting at each other at once. It was only seconds; it seemed minutes. I said to myself, Maybe, thank God, they didn't get the name. I said, You fellows go back and sit down. I told them to go back here (indicating) in this dining room. They went back there and sat down, and I went out to see Hammersla. As he said, I was very ill at ease. I was. I was terribly worked up over it, and nervous. I sat in the swing talking to Hammersla. As I was talking to him, the phone would ring, and my sister-in-law or some member of the family would say, Telephone. I would then get up from the swing. I think I told you the swing is here. Here (indicating) is the swing on the porch, and I would walk over here—here (indicating) is where the telephone was—to answer the phone. The phone rang a great many times—just exactly the number, I don't know—or the character of the same. There were a great many. I would go and answer the phone and come out again and talk to Hammersla. And I sat there for at least half an hour or so, talking with him, hoping he would go any minute. And, as I was sitting there talking with him, I said to him—I said, Harry—three men came along in an automobile—I said, Harry, you will have to excuse me; these gentlemen want to see me about a little business; he said, All right, Harry, I will see you again. And he got in his Ford and said, Good night. I said, Good night, Harry. And out he went. I said, You fellows come on in here. I took them in the hall and we stood in the hall here (indicating on picture). Well, anyhow, we stood in the hall over here in the neighborhood of the clock; they were standing there, which would be the north side of the building. We stood there talking; they were telling me that they wanted to get Horwitz out—that he had never been in trouble before—his wife didn't know it—they didn't want it to get to her. At first one would say, Why don't you get him out? And I said, I cannot very well tonight.

Q. (Mr. Robinson): What was the trouble? A. He was only a chap, named Horwitz. His house had been raided, and he had been arrested for having a still in this house.

Q. Nothing connected with this? A. No, sir; not in the slightest. They kept on telling—they said, We have already gotten a bailor and brought him out; you got one out—why not him? I said, I tell you boys, it is late, about half past nine or ten o'clock; you cannot get him out now; no use to worry about it. After some exchange of words among all three, they said, We have brought a man all the way from town to go his bail, and you cannot do anything for us? I said, No; there is no use talking about it. And then they went out. After they went out, I said, Those fellows will be out there in a minute. I went right back to the house—

Q. About how long were they at your house? A. As a matter of fact, those men were there fully fifteen minutes. They were there at least that. And after they had gone, as I say, I said to the taxicab driver, Those fellows will be out in a minute—meaning Socolow and the other fellow. I went back and I said, Come here.

Q. Where were they? A. In the big dining room. And I stood right here, in this doorway, facing the dining room; they were sitting in the back part of the dining room. I said, You fellows come here. I said, Let me tell you something: I am not going to represent a damn one of you, and I went on to tell them—and Socolow would break in and say, I am innocent. I said, I don't care whether you are innocent or not, I said. He said, Let me tell you my story. I said, I don't want to hear a damn thing about it; I won't represent a damn one of you. Every time I tried to talk he would break in and try to explain and said, Mr. Wolf, I am innocent. I said, I don't want to hear a damn thing about it. I said, The thing is not whether or not you are innocent, but the thing to do is to walk in and surrender; you will gain nothing by running away. After some further exchange of words, they walked out the dining room and started through the hallway that leads out to the portecochere. As they started out, they stopped for a moment, and this other fellow, who turned out to be Keller, turned to me and said, Mr. Wolf, will you help me out? I said, What is the matter with you? He said, I am charged with stealing an automobile. I said, Come to my office tomorrow morning at nine o'clock and I will see what I can do to help you out. They went out; we

breathed a great sigh of relief after they had gone. After they had gone—I don't recall whether I read the papers or not—it was the first chance I had—

Q. Let me interrupt you a moment. Had you ever seen Keller before? A. Never in my life. After they had gone, I don't know whether I read the paper for the first time; I had had no chance to read it before. Whether I sat down and read or immediately thereafter, I don't recall, but I do recall, after they had gone some little time—I don't recall the time—I said to myself, Suppose those fellows do show up in the morning; suppose they do come in; there is only one way to handle this thing—turn it over to the police and let them handle it; they are the ones to unravel it, and not me. I then called up Leverton; he was not in at the time. Some little boy answered the phone; he said, In one minute I will get him. I said, I want to talk to him. He came to the phone and I said, Captain, I would like you to be at the office tomorrow morning at nine o'clock; I may have something very important for you. He said, All right. So that ended that night's happenings. The next morning, instead of meeting Leverton at nine o'clock in the morning, as I expected to, I got a call to go to the Southern District. I went there and defended two fellows, named Lawson, for some minor charge. When I found nine o'clock approaching, I had the Horwitz case, too, that morning, in the United States District Court.

Q. (Mr. Dennis): Were they the three men who were at your home the night before? A. They were the three men that had been at the house the night before. I went to the phone and called up the office and I said, Is Captain Leverton there—or something like that. And someone said, He has been here and gone out. I said, I will be there shortly. I got to the office at half past nine or a quarter of ten. When I came in the doorway of the office—the hallway of the building is like this (indicating) and here (indicating) it runs along my office door, a matter of five feet after you get from the steps of the vestibule. When I got in the hallway, as my custom was, I said, Good morning, to everybody. Three or four people were sitting around. I said, Good morning, to everybody. And Dan was standing in front of the switchboard. I turned to Keller, who was sitting on the left-hand side of the chair—

Q. (Mr. Robinson): What is that room you went into; just describe it in a general way? A. A big reception room. I can-

not describe it any more than Mr. Dennis has always described it, as looking like Union Station. There are chairs all around and a big center piece such as you frequently see in hotels. I am not sure as I came in whether or not the fellow who turned out to be Keller was sitting on the left-hand side or not. As I came in I said, "Good morning, everybody," as I do in the morning. I don't know whether I beckoned to him or he stood up. I said, I see you here. He said, Yes, sir. I said, Look here—that automobile story you told me, do you really mean that? Are you really on the level about that? He hung his head on the side for a minute and said, Yes, sir. I said, Did you have anything to do with that Norris matter? Now, mark you, he had been to my house the night before; I knew he was with Socolow. I said, Did you have anything to do with that Norris matter? Well, he said, I threw the license and the box away. I said, You did; how do you feel about it? He said, I want to get it off my mind. I said, You do? I said, Do you mind telling the police that? He said, No, sir. I turned to Dan, where Dan was standing there, and Mr. Stevenson, with whom I was waiting to go to the Commissioner's office.

Q. Did they hear it? A. Yes, sir; they could not help hearing. I probably was not talking as loud as I am now, but I am not very quiet, as to which I have been admonished before many times, but I talked so that they could hear. I said, Dan, get Captain Leverton. Dan was out and almost within a flash he was back; and when Captain Leverton came in I turned to him and said, Captain, here is a fellow, or boy—I don't recall which I said—who can tell you something about the Norris matter; he knows where the tags and the box are. I said, Now, Captain, if he tells you the truth about it and helps you, I want you to help him on this automobile charge, because he is charged with stealing an automobile. The Captain said, You know me; if he tells the truth I will help him. I then left Captain Leverton and the boy and went in the office. I had only a few minutes in which to get over to the Commissioner's office that morning. I attended to the few things I had to attend to. Before I started out Leverton said, "This is down in East Baltimore; I have to get a car; where is your car? I said, I have sent it away. I turned to Al Friedman and said, Do you mind taking the Captain somewhere? He said, No; I will take him anywhere he wants to go. I said, All right; take him wherever he wants to go. And out Mr. Stevenson and I went. We went over to the United States Commissioner's office and attended to

whatever business we had to attend to. I don't recall just what time I returned, but it was before twelve. When I got back Leverton and the boy were there, and I said to the Captain, I said, Captain, how did you make out? He said, Well, we did not find them. I said, Don't you think the boy is telling the truth, or do you think he is—or words to that effect. He said, Yes, I do; he stripped himself up to the waist, and could not find it. He said, It is a big swamp. I said, What are you going to do about it? He said, I am going over to General Gaither and get help. I said, All right; that is the right thing to do. He went out and came back, and I went on about my business, and I did not see either of those men until in the afternoon late—I don't recall the time; I was attending to my business, going to and fro, and going about my affairs. In the afternoon late—I don't recall the time—I came back and Keller is in the office with Leverton—no, it was around about two o'clock, I should say. I said to the Captain, How did you make out, Cap? He said, We found the tag and the box. I said, I congratulate you—good work. I spoke to the boy—I don't know whether the Captain went out or what happened—I said to the boy, Have you had anything to eat yet? He said, No. I went in my left-hand pocket and gave him two quarters and said, Go down and get yourself a bite to eat, and then come back and sit in this room.

Q. What room did you refer to? A. The great big waiting room. It is a good-sized room. He sat in the waiting room and I went on about my business. Later in the afternoon—I don't recall the hour, but it was very, very late when I came back—I saw Keller on the right-hand side of my office, along between the doorway of Mr. Padgett's room and Mr. Dimarco's, where there are two chairs in a row—Keller in the middle and Tompkins and Sherwood on either side of him, and they were talking to him.

Q. That was still in the waiting room? A. Yes, sir; right out in the big waiting room. A few minutes after that, I don't recall how long, but a very short interval of time, Captain Leverton came to the doorway leading from the hall to the waiting room and said, Come on here, boy—come on here. And Mr. Tompkins and Mr. Sherwood said, We want to talk with him. Leverton, who was always more or less brusque, said, Never mind what you want: come on here, sir; come on here. They were hanging on to him and talking to him. And he

finally took him out. Now, that was the last time I saw Keller until he appeared in court.

Q. Now, Mr. Wolf, just go back for a moment. You heard the testimony of General Gaither? A. I certainly did, sir.

Q. He stated, just as you said, that you had been to his office and offered to do anything you could to assist him? A. Will you pardon me just a minute; excuse me. I would like to tell everything about it, if you don't mind. Let me say this to the Court: I worked hard on this matter for them. There was not a day that Tompkins and Sherwood would not come in, or some other reporter, that I would not tell them—discuss it with them freely and give my views about it. On the Monday afternoon following my visit to General Gaither on Friday Marion McKee called me up—I don't mean to be too fresh with him in Court—Marion McKee called me on the phone late in the afternoon of Monday and said, Harry, Georgie Heard is a little worried about his car. I said, What car? He said, His automobile. I said, What about it? He said, Well, he is a little bit worried, that maybe it is his car that is mixed up in this Norris matter; what would you do? I said, The only thing to do is to walk in and tell the police whatever the facts are; tell them frankly what the facts are. And the records show what Heard did in the matter. But that is where I helped again. Excuse me, Senator. I didn't mean—

Q. As a result of that, did Heard go? A. My information is he did, and Allers said it on the witness stand here yesterday that it was because of Heard confessing on him that he told what he knew. You will remember yesterday that Allers said it on the stand.

Q. Yes; the Court will remember that.

Q. (Mr. Leach): Heard went to Leverton? A. Yes, sir. He was a real policeman, sir.

Q. (Mr. Robinson): You heard the testimony of General Gaither that you told him on one occasion that you were going up—in substance; I don't mean to repeat it exactly—that you were going up to the police station to see Smith or somebody else, and you might get some information from them. Do you recall what happened at that time? A. My recollection is

not very clear about it, but I can say this to you frankly, if any of these men that I had seen on Saturday and Monday and Tuesday and so on had told me they were in the thing at all and wanted to make any statement about it, I would have gladly gone to General Gaither and said, Here, these boys want to tell all—want to open up, in police parlance, police language. I would have said, Here is a fellow who wants to tell all about it. I would have done all I could to help the State with it.

Q. You had made up your mind as soon as you heard of the crime you were not going to represent the men who were implicated in it? A. Yes, sir—so declared, as you heard Keller say on the stand, that I told Socolow to surrender. I did tell him that, and that I wouldn't have anything to do with it.

Q. Now, Mr. Wolf, you say, going back to your house for a moment—you say that you were very much excited and surprised when you saw these two men in your waiting room—reception room; did you or not know either of them? A. Oh, yes; I had seen Socolow before that.

Q. Had you ever seen the other one? A. No, sir; never in my life.

Q. Do you remember when you had seen Socolow? A. My recollection is the only time I ever saw Socolow was at the Northeastern Police Station when he was arrested for vagrancy over there—I don't know whether on complaint of the police or the mother, but I saw his mother there, and after he had been dismissed I gave him a good lecture in the hall. I told him—Sergeant Orem remembers it—I told him that was no way, that that kind of life would sooner or later get him in trouble—to go home with his mother—she was a very sweet-looking old lady with gray hair. I said, She wants to send you to a business college; pull yourself together. And he promised.

Q. When was that? A. It has been a long time. I would not like to be exact about that.

Q. Has it been a month or a year or two years? A. I will say—I cannot recall exactly—maybe eight months or ten months. I don't know, but it has been rather a long time ago.

Q. Was that the only time you ever remember seeing him? A. That was the only time I ever remember seeing Socolow.

Q. Now, did you get any fee for that advice you gave him? A. No, sir; not a penny, sir. I didn't want any fee out of that. None has ever been promised me, except Jenkins' mother, after running around town, and she gave me twenty-five dollars for getting her boy out and giving him a good talking to.

Q. These men at your house that night didn't offer to pay you? A. No, sir; never offered me a penny.

Q. Have you stated all the conversation that occurred between you and them at your house? A. In substance, that is the effect of it. I don't mean I recall every word, but before they got to talking to me, I kind of regained my composure a little bit, after Hammersla left, and I told them what I said—I did not want to hear a damn thing they had to say about it—every damned one ought to be hanged, or something like that.

Q. Was anybody present and in hearing during all the time of your talk with them in the house? A. The doors, Senator, as you see on these pictures—every door in that house was open. The only doors that were not open in the sense of being swung back were the screen doors here on the side (indicating); that was open in the sense that they had screens in them. Except those, every door was open, on the porch and the front, too, the same way.

Q. You say the lights were on in all the rooms? A. There were lights in the hall. The ladies were in the library there, facing on the left—not facing, but opposite the reception room. The doors all were wide open, and the windows, too.

Q. Were the windows up or down? A. It was summer time—wide open.

Q. And the lights all on? A. Yes, sir. In the dining room, I don't claim there were big lights in there, because when we finish dinner as a rule, the big center light, the big dome light, is put out, and there were only lights on the side—those bracket lights.

Q. They were lit up? A. Yes, sir.

Q. Any lights on the porch? A. Oh, the front porch is always lighted.

Q. And the reception room lights? A. Oh, when I walked in the reception room, there was a blaze of light—as bright in there as it is in here now.

Q. This man Keller, who testified yesterday, stated that he sat out on the porch while you were talking out on the other porch—while you were talking to Detective Hammersla? A. He is mistaken about that. The porch—there is one porch on the south, a short porch. There is a big porch in the front, facing Park Heights Avenue, which would be facing west. And there is the south porch or, rather, north porch, where Mr. Hammersla and I sat.

Q. And he could not have gotten from the dining room to that porch on the south side? A. The only way he could have gotten out on that porch would have been to have gone through the sun parlor. There are doors in the sun parlor. Let me show you, if you don't mind (indicating). The only way he could possibly have gotten out of the dining room to that south porch—it is a sort of a knob of a porch. It swings around and gets a little beyond the library window, and passes by that maybe four or five feet. He would have had to have gone out the screen doors, which were closed, as you see them here now, and gone around to the right and unlocked—they were bolted to keep people from getting in at night—a sliding bolt—and then a key. Had he done that, he would have gone to this screen door and gone out. That is the only way he could have gotten there.

Q. (Judge Gorter): The door from the dining room does not lead to the porch? A. No, sir. If you will permit me to show you, I can make it very plain—out here, like that, sir (indicating). You see the porch don't come all the way in; the sun porch obstructs it.

Q. (By Judge Gorter): Did the boys go into the sun-parlor? A. No, sir. When I saw them they were right here (indicating), near the sun parlor. Here (indicating on picture) is where I directed them to sit.

Q. (By Judge Duffy): Were the windows of this sun parlor open? A. I can only give you an answer as to that as a rule, sir. I can only say what we do as a rule because this was summertime and they swung out here (indicating). Now, as a rule, we keep them open so as to let the air go through the house that way.

Q. But you do not remove the windows from your sun parlor in the winter? A. Oh, no, sir. It is all screened in. You see, your Honor—(examining pictures)—here we are. Can you see, your Honor, Judge Duffy?

Q. Yes? A. Now, these are all big windows here (indicating), windows, five or six of them, with about eight panels of glass in them. In addition to that, we have windows—

Q. But I am talking about the outside windows of the sun parlor? A. Yes, sir.

Q. Were they in place? A. Oh, we never take them out, sir.

Q. You never take them out in the winter time? A. No, sir. They are permanent.

(By Judge Duffy): All right.

Q. (By Mr. Robinson): Now, you have spoken of Mr. Hammersla coming there on that evening? A. Yes, sir.

Q. Was that the first time that he had ever come out there to your house? A. Oh, no, sir. It is nothing unusual for Mr. Hammersla to come out there to see me at my home. Since I have been out there in the country he comes there more often than he used to when we lived down town. In the summertime we have a great many people coming there but a lesser number of them in the winter, not so many in the winter.

Q. But he was a very frequent visitor at your house? A. Oh, yes, sir. He came there a great many times. As I just said he used to visit us when we lived down town but he did not come as often then as he did since I have been out in the country.

Q. Now, Mr. Wolf, you were eating dinner with your family, your wife, your wife's mother and your wife's sister, Mrs. Goodman and yourself? A. Yes, sir.

Q. And you were in your dining room when the door bell rang. Now, how far had you progressed with your dinner? A. Well, Senator, I can only answer you in this way. It is impossible to tell you the exact time or just what part of the meal we were engaged in. Whether we were having the soup or

just what we had, I could not now say, but we had not been down at the table but a very few minutes at the very most. May be ten minutes—pardon me.

Q. Go ahead? A. You see, I always try to get home for dinner every night at seven o'clock. I try but it is very rarely done on my part because there are people sitting around in my office some time all day long and you have got to see them. Ninety per cent of them are very poor people but I always try to get home as near to seven o'clock as I can. On this night I did not get to my home until nearly eight o'clock. The folks had been down to Sandy Beach on that afternoon and when we arrived out there at home, well, you know how women are, they go upstairs and have to wash themselves up and fix for dinner but I think that we sat down at about eight o'clock.

Q. Now, did you have just a plain dinner or a course dinner on that night? A. Well, it is plain but it is also a course dinner in the sense that they serve one thing right after another and not all at one time.

Q. Well, at any rate, after you had finished your dinner did you hurry out? A. Oh, no. You see, the only time in the day that I have to spend with my family is at night, and we sat there eating dinner as we always do and we just sat there until we had finished our dinner, and then we sat around our table talking, as we always do. Just talking about the trip that afternoon, about the little fellow being down at the beach and how much fun they had had. Just idle talk around the table.

Q. So that from the time that the door bell rang and your sister-in-law went to the door and let in those two men and reported to you that there were two—not to use the exact language—that there were two rough looking men that had come in there, from that time until you walked out of your dining room, behind the other members of your family, with your wife after the dinner, was about how long? Twenty-five minutes would you say?

(By Judge Gorter): He said twenty-five minutes.

(By the Witness): I did not fix it exactly but it was at least twenty-five minutes, sir.

Q. (By Mr. Robinson): About twenty-five minutes? A. Yes.

Q. Now, except for the conversation that you have related and when you were surprised as you were when you walked into the reception room and found these two men there and directed them to go back to the kitchen and wash up and told the servant to get them something to eat—from that time up until just before they left, when these other clients of yours had come and gone and after you had told these men that you would not represent them and they had been let out, was there any conversation between you and them except what you might have accidentally spoken to them when you were passing through the kitchen? A. Not a word, sir. When these three other men had gone, I turned to the taxicab man and said to him, as he stated here yesterday, The fellows will be out in a minute, and, up to that time, except for the small part of the time that I had gone through the kitchen, not a word had been said to them by me, sir.

Q. Now, you heard this Keller boy tell of a story that he had told to you after you come back there something about How would it do—or, the meaning of it was to frame-up Keller, to frame up Allers, I mean, in this matter? Now, you heard his testimony along that point, didn't you? A. Yes, sir; I did, sir.

Q. Now, did anything like that occur? A. Positively nothing like that occurred, sir.

Q. It did not? A. Positively not.

Q. Did it occur at any time in your house? A. At no time, sir.

Q. Was there any reference made during that visit in your house to Allers? A. Not the slightest, sir.

Q. Now, have you told everything in substance, from the time that these fellows came to your house until they left? A. Yes, sir. Absolutely I have, sir.

Q. Was anything said in your house on that night with reference to any box or tags? A. No, no, no. No, sir.

Q. Nothing? A. No, sir.

Q. Now, then, Mr. Wolf, you have recited to the Court the conversation that occurred in your office on the following morning when Keller appeared there? Have you told the Court everything that occurred? A. Well, sir, as far as I can recall, sir. If you will call my attention to anything else I will be glad to tell you.

Q. Yes. Now, did you have any talk with this boy Keller at any time, in your office outside of the presence of the people that you have discussed here as being present? A. No, sir. Positively, no, sir.

Q. To either Captain Leverton, or the Sun reporters or to Mr. Stevenson or to Mr. Dan Meyler? "Dan." Did you ever see him? You referred to him as "Dan"? A. Yes, sir. That (indicating) is Dan Meyler.

Q. Is he employed in your office? A. Yes, sir. He has been around there for some time.

Q. In what capacity? A. Well, clerk.

Q. Yes. So on the night or rather, all of the things that transpired in your office, the only time that you have detailed here, Thursday morning—pardon me—Thursday morning, that you have detailed here—did the talk with reference to turning Keller over to the police take place in your private office or in your reception room? A. In the big room, sir.

Q. Yes. Just before or about the time that Keller was going out of your office with Captain Leverton, as he made the statement when he was on the witness stand yesterday that you called to him to ask him in substance what he was going to do, whether he was going to frame Allers or words to that effect. Now, I ask you, did you say anything to him as he went out? A. Not a word like that, sir, or anything else.

Q. Well, both of the representatives of the Sun have denied that you said anything and Captain Leverton has denied that you said anything? A. Yes, sir. And those gentlemen were right, sir. They were sitting there as I told you before, on the right hand side of the room talking with Keller when Captain Leverton motioned to him to come on.

Q. Now, didn't you tell this boy to tell the truth, to tell whatever he knew to the policeman? A. Certainly.

Q. Now, what was your language when you turned him over to Captain Leverton? A. Do you mean in the early morning, sir?

Q. Yes? A. I said, Now, Captain——

Q. Now, first before doing that, you had gotten his permission, hadn't you? You had asked him if he knew anything that he wanted to tell? A. Well, now, if you don't mind, I would like to tell you exactly what I did say.

Q. Yes. Go ahead? A. Well, in talking with this boy, Keller, I said to him, This automobile story that you are telling, do you really mean that? Do you really believe that? You see, that did not sound good to me and I knew that he had been at my house on the night before and he had been there with Socolow and all the papers were saying that they wanted Socolow and so that story of his, I thought, was just an excuse to enable him to come into see me.

Q. Yes? A. And so when he got there I said to him, Is that automobile story really true? and I sort of half laughed, and he said, Yes. Now, mind you, he had been at my house on the night before with Socolow. I said to him, Now, look here. Do you know anything about this Norris murder matter? or words to that effect. He said Yes. I said, What do you know about it? He said, I know where the license and the box is. I said, How do you feel about it? A. He said, I want to get it off my mind. I said, Do you mind telling the police that? He said, No. I then turned to Dan and I said, Dan, where is Captain Leverton? Dan said, He is right outside here. I said, Go out there and get him. Dan then brought the Captain in and I repeated the story in Captain Leverton's presence, just what I have told you.

Q. Now, on the evening before, when Keller and Socolow were at your house, you called up Captain Leverton. Now, what length of time elapsed between the time that these men departed and the time that you called up Captain Leverton? A. Of course, I didn't hold myself down on the time. It might have been may be, ten minutes, fifteen minutes or even twenty minutes. As I said just now, I had advised them to surrender and at the time, I didn't know who this other fellow was but they both looked alike to me in so far as the case was concerned. I

said, Now, if they come in the best thing is to let the police handle it, they ought to be able to unravel it and then, by the time I called up Captain Leverton—

Q. Had either one of them been indicted at that time? A. No, no. That is, not according to the papers, now. I know that in the afternoon papers first appeared the confession, or the statement of Allers and that was the first real notice that they had something that looked like they had something that was tangible. I had told them all, all that I came in contact with, that is, that when anything came along that looked like they had them, that then I would not represent any one of them.

Q. Now, this thing was given wide publicity in the press, according to the papers that were introduced here and a statement was made that this man, Keller, to whom the State's Attorney refers as a "Gold Mine" and so on, had made some statement to you about what they call a frame-up; and that after that you went up to the Central Police Station—am I right in saying the Central Police Station? A. That is right.

Q. (Continuing): To the Central Police Station to see Keller. Do you recall doing that? A. I certainly do, sir.

Q. Do you recall what day it was? A. On a Saturday, sir.

Q. The Saturday after this Wednesday? A. Yes, sir.

Q. To the Central Police Station? A. Yes.

Q. And that is on Saratoga Street near Charles? A. Yes, sir. Between Charles and St. Paul Streets.

Q. Now, who went there with you, Mr. Wolf? A. I asked Mr. Stevenson to go there with me, and on our way around there I got Mr. Sayler, Mr. J. Abner Sayler, to go along with me, sir.

Q. And where did you go? A. To the Central Police Station.

Q. Whom did you see? A. It was in the neighborhood of three or four o'clock; I don't recall just exactly what the time was, but I went in there and I said to Desk Sergeant Stemple,

Sergeant, I would like to see Keller. And right alongside of me at that time was Mr. Sayler and Mr. Stevenson. Sergeant Stemple said, Well, the orders are that you can't see him. I said, Who gave you those orders? He said, the Captain. I said, Where is the Captain, and he said, He is not in just now. I said, Would you mind asking General Gaither for his permission for me to see him? He said, No; and then he called up General Gaither and he got General Gaither on the phone. I said to him, General, may I see Keller. He said, Well, Mr. Leach's orders are that you cannot see him. Why don't you call him up and get his permission to see him? I said, No, I would rather that he would ask Mr. Leach. He said, Well, all right, I will talk to him for you. I said, I will thank you very much if you will talk to him, because I do not want to have anything to say to him. A little later the General called back; he called me up at the station shortly after and he said that he had called up Mr. Leach and that Mr. Leach had said, No. I then said, All right, General, and out I went.

Q. Well, why did you want to see him? A. I will tell you why I went to see him. On the Friday morning when the papers came out they charged me on the statement of Mr. Leach that I had been guilty of an outrageous frame-up. I was furiously mad at first about it, and my first intention was to go over to the Court House and grab Leach by the collar and give him a good thrashing, but I met O'Dunne, and he said to me, Now, wait until you have cooled down. Don't do anything when you are mad. You must not do anything when you are mad. I said, I guess that is right. But on the next day I had cooled off; I said, This boy has told what I consider to be a damned lie. I can't imagine that a boy like that would tell a lie of that sort when he knows that it is not true. So I said to Sayler, Abner, I want you to go around there with me. I don't believe that this boy has told anything like that on me, and then I got him and Mr. Stevenson to go along with me, and I took them around there with me so that they could hear at first hand that this boy had not said anything like that on me. If he had said that he had not told them anything like that then I was going to call the attention of the proper officials to it.

Q. Yes. Now, Mr. Wolf, you have stated that you offered to see him and that they refused to let you see him, and then that you came right on out? A. Yes, sir.

Q. Now, they have made some statement and I see that it is given great publicity in the papers—— A. Oh, I have had plenty of that.

Q. Yes. That you had made some effort to see Keller up at some window in the station house? A. No, sir.

Q. Now, will you tell the Court what occurred? A. Well, as we left the station house and started down the—I will—I don't know whether somebody said something or just made a sound, a Sssss! Something like that. Anyhow, our attention was called by somebody and we all looked around. I have not very good eyesight myself, but as we looked I know that it was something there away back in one of the windows of the station house, but I could not make out just what it was. Then Stevenson went into the little yard or areaway alongside of the building. It is just a little open space where you can look out from the Central Police Station window right across the desk in the main assembly room of the station. It is no difficulty in seeing out there from the interior of the station house at all. He said to him, I can't hear you, or something like that.

Q. Who did—Mr. Stevenson? A. Yes, sir. And that is all that happened.

Q. Were you able from where you were standing to recognize just who it was yourself? A. No, sir; you could not see that. If you are standing this way (witness illustrating) it was over that far distant and you could not see who was there. At least, I could not see it.

Q. Did you yourself say anything to him? A. Not a word, sir.

Q. Now, have you ever seen that boy to say a word to him from the time that he walked out of your office with Captain Leverton to go over to be locked up by the authorities, where they have kept him ever since up to this time? A. At no time, sir.

Q. Now, Mr. Wolf, Mr. James Locke testified here yesterday—and I can readily understand how he might be mistaken as to the time about which you told him like how that Keller came to your office on Wednesday afternoon; that is, the Wed-

nesday afternoon of the day that he came to your house. Do you understand me? A. Yes, sir, I understand you.

Q. Yes. Now, was he at your office? A. No, sir; I did not say that it was on Wednesday, as Keller himself admits. He didn't see me until Wednesday night. Mr. Locke is mistaken about that. Instead of saying afternoon he should have said that what I told him was at night—Wednesday night.

Q. Yes. Now, Mr. Wolf, there seems to be running through this case much criticism of the fact that you did not tell Leverton or Hammersla that Socolow was in your house. That he was at your house on Wednesday night. Now, had you any reason or what was your reason, or had you any reason for—— A. Now, here is my view of that. Socolow had come to my house on that Wednesday night professionally. He came to see me and he kept on saying all the time that he wanted me to be his lawyer. Now, I did not understand the law and I do not understand the law now to be that I was compelled to disclose the fact of his visit there, or, for that matter, of what he said to me. At no time did I understand the law to be that.

Q. No, and no reputable lawyer ever did? A. And I would not under any circumstances have revealed that to either Leverton or anybody else. I did not think that I had any right to do that. Socolow had not told me that he wanted to surrender, and I would not do it.

Q. Had he been indicted? A. That I could not say. It had not yet appeared so in the papers.

Q. Well, it is a matter of record, and it happens that he was indicted some time afterward? A. I don't recall.

Q. Now, Mr. Wolf, it was a good deal of excitement about this murder so far as the press was concerned and in so far as the people were concerned. Do you know whether or not many people were concerned. Do you know whether or not many people were arrested upon suspicion? A. I don't recall the exact number, but, roughly speaking, I know that it must have been at least twenty-five people, sir.

Q. Twenty-five people were arrested? A. At least that many

Q. In the effort to locate the proper parties that had committed this crime? A. You see, Senator, whenever a crime of any great moment is committed—and, thank God, nothing like this has ever happened in this city before. This is the climax of it all—

Q. Except the Clare Stone case? A. Yes, sir. But they have not apprehended that man yet. That was a terrible thing, too, but whenever a case of great importance arises in Baltimore there follows the usual getting together of the poolroom hangers on, and the fellow that shoots crap and all those types of fellows, and a general weeding-out process is gone through with; and that was what was happening on that Saturday that I was there, sir.

Q. Now, at the time that Socolow appeared at your house had you any more reason to believe that he was the murderer than that anybody else who had been arrested was, or any of the other suspects? A. Only to this extent, Senator: Up to Wednesday afternoon the police were at a loss to pin anything on anybody. Every day's delay from Saturday until Wednesday made the uncertainty more and more, but on Wednesday afternoon the Allers' statement was in the afternoon paper—I don't know which one—about Allers' confession, and then it was for the first time, as I said to Hammersla, as he himself said on the stand, I would never have believed that any of our boys around Baltimore would have done that; that any of them would have been so bad. I would not have believed that to be so until Allers said what he did. It was impossible for me to believe that local boys had done it, but when Allers said that in the papers, the reference that Allers made to the local boys, I said, Well, then, that looks to me like it is all right.

Q. Now, at the expense of repetition, I want to ask you again, Mr. Wolf—I think I have already done it, but the Court will pardon me if I go over it again—did you ever talk with Keller alone? A. No, sir.

Q. You heard Mr. Sherwood's testimony, Mr. Wolf? A. Yes, sir.

Q. And he made some reference in his testimony about his having talked with you some time between the twenty-fifth and the twenty-ninth of August, in which you made some reference

to the way in which Mr. Norris was killed and in which the slayer was referred to as having kicked Mr. Norris?

(By Judge Stanton): Suppose you reframe that question.

(By Mr. Robinson): Yes, sir, I will. (To the witness) You had the testimony of Mr. Sherwood with reference to some conversation that he had with you between the twenty-fifth and the twenty-ninth of August—I think between the twenty-first and the twenty-fifth of August, I think it was—

(By Judge Bond): He said that it was not as late as Friday, the twenty-fifth.

(By Judge Duffy): Yes; and he said that it was shortly after the twenty-first.

Q. (By Mr. Robinson): Now, do you recall—just let me withdraw that question. Do you recall the testimony of Mr. Sherwood? A. I recall it very well, sir.

Q. And do you recall what that conversation between you and Mr. Sherwood was? A. It is impossible for me to pick out any particular conversation that I had with Mr. Sherwood, because, as I said to you before, from the Friday night that Mr. Sherwood came over to me and said that the Sun paper wanted me to help them, he, Mr. Sherwood or Mr. Tompkins, every day some one of them would come in there, in the morning or in the afternoon, and we would discuss the case in various ways. If you will get the paper of the afternoon of the first story, from then on you will find almost in detail where the papers described how the thing was done themselves. It was nothing from me at all. The papers had the whole story and made it look the more gruesome; that is, the details did, and more brutal, and kicking only accentuated it. It was all told in the papers for two or three days immediately following the murder.

Q. Now, I would like to show you the Evening News, five-thirty edition, of Saturday, the nineteenth of August, in which the following appears as a published statement. This part that is here marked with pencil. I would like to ask you—I would just like to read this to the witness. It is only a few lines.

(By Judge Stanton): What date is that?

(By Mr. Robinson): It is the five-thirty edition of the Baltimore News of Saturday, August the nineteenth, 1922. (Reading) Right near the corner after this man Smith—— It is a right long story, but I would like to read him this particular part, and I would like to ask him about that—— (Reading) "Right near the corner after this man Smith walked up to Mr. Norris and said something, Mr. Norris tried to fight him and Smith grabbed him and shot him. Mr. Norris grabbed at him and Smith kept on the left side and kept shooting at him. Four or five shots were fired. It was like a moving picture. I don't know at which shot Mr. Norris fell, but even after he dropped Smith struck him with the pistol and kicked him in the face. At the same time he grabbed a bag and threw it in the automobile. While this was going on two of the men jumped on Mr. Kuethe, one of them pushing roughly against his chest and the other striking him on the head with the pistol. Mr. Kuethe fell and one of the men seized the box that he had held and the two ran to the automobile. Smith was in the machine already, and when the others jumped in the driver put on the gas and drove rapidly down the street." (To the witness) Now, then, did you see that account? A. Oh, yes, sir. I read all of those early editions, all of them, but that is not the only paper. If you will get the other papers from the day of the murder on, I think in all of the afternoon papers, you may find something in the five-thirty there where they describe it.

Q. Had you any information in any way and from any source excepting that published in the press as to how this tragedy had occurred? A. No, sir; positively none, sir.

Q. Now, Mr. Wolf, Keller has testified that Socolow at your house told you that he had shot Norris in the leg and that he described in a general way how the shooting occurred. Did any such conversation as that take place? A. No, sir. Socolow at all times protested his innocence and said that he was not guilty of it. He seemed to be enraged about the case and never admitted doing it. On the contrary, he denied it. I never went into anything with him, though. They tried to tell me, but I said, I don't want to hear a damned thing that you have got to say.

(By Mr. Robinson): Now, your Honors, I would just like to say that if at any time there is anything that any of you would like to ask the witness we would be very glad to have you do so.

(By Judge Bond): We will not hesitate to ask anything that may seem to us to be pertinent.

(By Mr. Robinson): Yes, sir. Now, is there anything else that you want to say, Mr. Wolf?

(By the Witness): I just wish to say publicly that if the Court will ask anything that is in their minds I will be truly grateful to you. I don't care what it is, I wish that you would ask me and I will gladly answer it.

(By Judge Stanton): There are some things that in all probability will come out on cross-examination, but there is only one thing that we would like to ask about, and that is why it was that you asked Captain Leverton to come to your office on that morning in civilian clothes?

(By the Witness): I don't recall that. I may have done it, but I have no recollection of having done so. But the only thing that I can say is this: You see, in the Police Department there always has been, and there always will be, a lot of petty jealousy. Now, Captain Hurley and I have never been on good terms. I want to tell you about that, and I am very glad that you asked me about that. Up to the time when Captain Hurley came down to the Central District from the Northern District I had not spoken to him from the time that Captain Ward was tried before the Police Board. However, that is another story, but I had never spoken to him except when, as I say, he was sent to the Central, when as I passed through there I would say Good morning or something of that sort.

(By Mr. Poe): Now, how is that responsive? Is that responsive to your Honor's question?

(By Judge Duffy): Now, let us hear it. I want to hear it.

(By the Witness): I would just like to tell you that, sir. But whatever your Honor says.

(By the Witness): I never got along with Hurley and Kahler, and some of the Court may know that I have had many, many bitter run-ins with them. Kahler and Hurley were both working in this case, but I never could get along with those fellows. Leverton was the man who had gotten Heard, and now

Heard was the man who was the owner of the machine, which was the most vital thing for the State to get their hands on, as up to the time that Heard had been apprehended the police were just flying around in the air trying to get a clew. Now, the most important clew for them to get was the owner of the car, so as to make a big strike or to locate the machine, and the man that located that machine was Leverton, and Leverton had gotten that information from Heard and Heard had been sent to him indirectly through me. Now, what I have always done and always made it a practice to do when I find that a man is in a case and is working on it, I always turn it into the man that is working on it. Now, Leverton had heard that it was Heard's machine, and then when they had that much then they had a lead, a lead that led them good and straight at once. They had a good, strong case. I had known Leverton for years, a very blunt fellow, but a very courageous fellow, and so as between such men as Hurley and Kahler, men that I knew detested me, and Leverton, it was not any choice. So I had him come here. As a matter of fact, I think that General Gaither may be, said on the stand that he saw Leverton standing on my pavement on the morning of the day that Keller was there. It has always been this petty jealousy in the department, and whenever the administration changes, whatever clique is with that administration is in the ascendent, and it so happens that Hurley is in full swing now. Why, if it had not been for the fact that Hurley detests Leverton—why, some years ago they had some trouble—

(By Mr. Poe): Now, we object to that. There ought to be some limit to how far he can go in this matter.

(By the Witness): All right. Whatever the Court thinks. If your Honors will permit me to say just one word. The whole thing about Keller never would have been heard of if Hurley had not been in the case.

(By Mr. Poe): Counsel should not argue his own case. He has five or six other counsel here to do that for him.

(By the Witness): But I want to tell you the facts; that is all.

(By Judge Duffy): Go ahead, Mr. Wolf. Well, go ahead Mr. Poe. I was going to ask you a question, Mr. Wolf, but I will wait until Mr. Poe is through.

(The Witness): All right, sir.

Q. (By Mr. Robinson): Now, Mr. Wolf, I think that you stated that you did not believe the story of Keller about the stealing of the automobile as being the only crime in which he was involved and of which he told you at your house? A. Mr. Robinson, that statement was to me, silly. My idea was that he was using that so I thought, just as an excuse for him to come in and see me. Let me say something here—

Q. Now, wait. Now, wait. Now, in telling Captain Leverton to be there your idea was to turn this fellow over to the Police Commissioners if they came into your office, wasn't it? A. No, sir. Not the Police Commissioners. I intended to turn them over to the Police Department. I said, Here. I don't want anything to do with the case. You fellows handle it. I have done that repeatedly.

Q. Now, if he had been in a uniform wouldn't that have had a tendency to keep this fellow away from your office? A. Well, I would rather that the Court should draw its own conclusion as to that. I will tell you what I think and what I know.

Q. Of course, they are never turned over by you when they are there as clients? A. Absolutely no.

(By Mr. Robinson): That is all. The witness is with you.

(By Mr. Poe): We have no questions to ask you.

(By the Witness): Now, will any of your Honors ask me anything that is in your minds, sir?

(By Judge Duffy): Yes, I will. When you say that you saw these two boys in your house you say that you thought it was going to be a shooting-up, and then upon an interrogation of the Senator's, you seemed to say, or I understood you to say that the reason that you did not deliver that boy up to—Socolow up to Hammersla when he was there, with these boys in your home, was because that you did not conceive it to be your legal duty to do so. Now, explain that?

A. Excuse me, sir. I did not mean to point my finger at you, sir. I will be very glad to do so, sir. When I first saw them, if I had kept my poise and if my wife had not come alongside of

me, it was my intention then and there to say to them, Now, you get right out of here. I don't want a damned thing to do with you, and they would have gone out of there in less than two minutes. I don't know whether your Honors can get a mental picture of their appearance or not. Of course, you see them here in Court when they are dressed and washed, but on this occasion, you never saw a more desperate looking situation than there was on that night out there. Now, you must remember that mine is the last house in the city limits and it is nothing unusual for police to come in there to get buttermilk and such things as that, motorcycle policemen and others, both night and day. They come in there at almost any time that they want. So when I saw them there my heart was in my mouth. My wife was standing alongside of me and I do not want to put the blame on her at all, but if she had not come up to me I do not think that I would have lost my composure as much as I did. I said, Now, you fellows walk back here. I showed them the way towards the kitchen and when I came back from the kitchen, my sister-in-law announced that Hammersla was there and I could have fallen through the floor. Then I was real panicky. I looked at them for a few seconds and I thought, Now, these fellows will say, Is that so. Police fellows. We can only die once and then they would start to shooting. I didn't think of what—now, don't misunderstand me. I did not think that they would shoot me but the women were all there and as nervous as my wife was, God knows what might have happened. But when Hammersla was there I did not think that I should take them out there or that I should say to Hammersla, Come into my house and get them, but those are the facts just as they are, sir.

Q. Now, is it not a fact that Hammersla, just as he said, came to your house on this occasion when these men were in your house and asked you to let him in on this Norris murder case so far as you would be able to do it in order that he might get some strategic position which would enable him to get the position of Captain of Detectives? A. No, sir.

Q. Didn't he say that? A. No, sir. Your Honor; as Mr. Hammersla has said, I was restless and nervous and put out, his language was, I believe. I "was not myself," and that is true, I was not myself. I could not wait for these fellows to get out of my house.

Q. Tell us what it was that Hammersla said to you? A. In detail I can't recall. Hammersla has been coming to my house

as long as we have been out there which has been for three years, sitting around there talking about his family and his boys and my family. Just idle talk. As I said, on this occasion, I was ill at ease. I was very uncomfortable and I was waiting for him to go but as for recalling the details of the conversation, that is impossible.

Q. Was the Norris murder case mentioned at all? A. The only reference that I made or statement that was made about that, the Norris murder, was the reference to Allers when I said to Mr. Hammersla, as he told you here on the stand yesterday, that I did not believe that any of our Baltimore boys would do anything like that. That was the only reference that was made to it as I recall it, sir.

Q. Now, then do I understand that your fear that it would be a shooting up had anything to do with your failure to disclose to Hammersla the fact that you had this fugitive murderer in your house at that time? A. Well, it was a little bit of both, sir. In the first place I did not think that I had any right to do it. In the first place I felt that if anything had started like that, if Hammersla had come in there as he might have done that then it would have been bloodshed in my house.

Q. Now, then, Mr. Wolf, you knew that this Socolow was the boy and you had only seen him once before and that was when he was up on a charge for delinquency in the station house and then on that occasion you told him to go home with his mother and that was the last time that you had seen him up to the time that you saw him in your house on this occasion. Now, what was it that made you think that he was there in your house armed, ready to defend himself against the detectives in case you had given them up? A. All the papers had spoken in no uncertain terms about the desperate character of the case and that Socolow was a bad man and his name was in the paper, in the afternoon paper, that Socolow was wanted by the police, along with Hart. May I say this to your Honors. It is nothing unusual when a man of this character goes into a place that they frequently leave another man on the outside and so when the approach of a police is made, shooting at once begins. Sometimes, the man on the outside gives warning. I was conscious of all those things, sir. I have heard too many cases, sir.

Q. Now, let me ask you this? A. Go ahead, your Honor, please, sir.

Q. Have you any further explanation to make of this situation? These two fugitives came to your house on the evening of the twenty-fifth and Mr. Hammersla, the detective, is on your porch while they are there. You do not inform Hammersla of their presence and Hammersla goes away. The next morning you deliver Keller into the hands of another member of the Police Department who was your friend, and then comes out the false trail which you know that Keller gives to the police. Now, have you any further thing to say in explanation of that situation? A. Well, if your Honor will just give me what you want answered, sir, I will do it very promptly for you, sir.

Q. That is the situation? A. Now, your Honor, I don't know whether this will answer you or not—

Q. I want to know if you have anything further to say? A. Now, here, these two men had been at my house. One, so the papers had said, was the man that was wanted for the murder but I told them both that I would not have anything to do with it. Now, you must remember that in this case it had developed that nine men had been indicted for this murder, four or five of them as principals and the rest as accessories. Now, so far as concerns them being at my home. I thought that both of these men were in this job and I told them to surrender as they should do. This one fellow, who afterwards turns out to be Keller, said, Will you help me? I asked him what his trouble was and he said that it was some automobile business. I said, All right. Meet me tomorrow morning at my office. I thought that that was just an excuse for him to come in there as many others have done and say I am tired of it all and I want to give myself up. He comes up there and I was very eager if I could do it in a decent way, of course, to help the police all I could. Now, when Keller said to me what I have already told your Honors I said to him, Is that automobile story really on the level? Do you really mean that? He said, Yes. I then said, Did you have anything to do with this Norris murder and he turned his head to the side and shook it and then I said, What did you have to do with it. He said, I know where the license tag and the money box is. I then said, Would you mind telling the police that and he said, No. Then it was that I sent for Captain Leverton and he came in there. Now, if that is not a good enough answer for your Honor I would be very glad to have you ask me anything that you wish and I would be very glad to answer anything, anything at all. This is the first chance that I have had to make

any public statement about it and I would be very glad to tell you anything that you wish.

(By Judge Duffy): I have no further questions to ask.

(By Mr. Robinson): Do I understand that that is all that your Honors wishes to ask?

(By Mr. Poe): That is all. No questions.

(Examination concluded.)

Thereupon, MRS. SARA C. WOLF, a witness of lawful age, produced on behalf of the Defendants, being first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Robinson): Mrs. Wolf, you are the wife of Harry B. Wolf? A. Yes.

Q. How long have you been married? A. 18 years.

Q. How many children have you? A. Four.

Q. You reside out in Park Heights Avenue at this time? A. Yes, sir.

Q. And you have been living there— A. For three years.

Q. Do you remember the evening of Wednesday, the twenty-third of August, last, when some people came to your residence? A. Yes, sir.

Q. Now, will you tell their Honors, the Court, just where you had been on that day? A. Yes, sir. We had been down to Sandy Beach. I say "we" but I mean by that my mother, my sister and my little boy, Mrs. Goodman and Miss Krone. We had gone there in the machine with the chauffeur and we stopped on our way home to pick up Mr. Wolf at his office on Lexington Street.

Q. On your way home from Sandy Beach? A. Yes, sir. We had been down at Sandy Beach.

Q. Go ahead? A. On our way home we stopped to let Miss Krone out at her house right near the Maryland Country Club and we then proceeded to our own house and the the ladies went upstairs to wash before dinner. Dinner was served I should say, about eight o'clock, and we were in the midst of our dinner when the front door bell rang. My butler was away and the maid was serving dinner and she was very busy so my sister proceeded to open the door. When she came back to the dining room door she seemed very much excited and said, Two of the worst looking scoundrelly fellows—I don't know her exact words but it was something of that sort. Harry said, Well, let them sit in the reception room, a common proceeding, and she said, They are there and she then sat down and we continued our dinner. When we had finished the three ladies preceded me through the dining room door and they went into the library. Mr. Wolf and I followed, he going towards the reception room and I towards the library to the left and as he got to the door of the reception room, my back was turned but I suppose that he had gotten to the door he said—may I use his words?

Q. Yes? A. He said, What in the hell are you doing here or something of that sort. Very much surprised, it was so unusual for him to greet people in this fashion, I turned instinctively and went to the reception room door. I saw these two awful looking boys, or men or brutes, and I held his arm. He patted my hand and said to the men, You go down to the kitchen. You go down there and wash up. They went through the hall and turned into the kitchen and went into the kitchen, Mr. Wolf and I followed them. When we got into the kitchen he said, Florence, let these men wash up and give them a bite to eat, and then we went on out of the kitchen door to the yard. We walked slowly towards the gardener's house he telling me to keep quiet and cool and not to get hysterical and not to get excited. I left him there and went around to the port cochere and called the chauffeur to bring the machine to take Mrs. Goodman home. I went up to the steps of the port cochere, the north porch and called up to Mrs. Goodman that the car was ready for her and she left immediately after which I went into the library and rejoined my sister and my mother. I had just about gotten in there when the bell rang again and my sister went out and opened the door. I heard her come back and go to the dining room and say, Mr. Hammersla is here, and I knew who Mr.

Hammersla was and I kept quiet. She came back into the room and we staid there and heard Harry go across the hall out on to the porch and heard the door close after he was out on the porch. The telephone bell rang several times while he was out there and we called him, my sister called him in, I think. I think my sister each time doing it. He would then come in and answer the 'phone.

Q. Was the 'phone in the library? A. The 'phone was in the library where we were.

Q. Yes? A. Then I heard some voices in the hall but I could not say who was there but I heard some men out there talking attempting to get somebody out on bail, evidently, somebody that had been arrested. That is nothing unusual but he said that he could not do anything on that night. Well, they said that they had their bondsman with them and they were sure that Harry could do it. They then left and Harry went towards the dining room door and I heard him say, Come here, evidently addressing somebody in the dining room. I heard voices speaking and one of them saying I am innocent, Mr. Wolf, won't you be my lawyer. Won't you let me tell my story? Harry said, No, I don't want to have anything to do with it, I don't want to take your case and I don't want to hear your story. They interrupted him each time that he started to talk and he said to them, Guilty or innocent the only thing for you to do is to go down and give yourselves up. And they said, Well, we are innocent. He said, it doesn't do you any good to run away. If you run away they will catch you sooner or later so just go on down and give yourself up. Well, we won't get a fair trial? He said, Now, you do as I tell you and that is all. And they started out towards the port cochere and at the door I heard a voice say, Will you take my case? Mr. Wolf said, What kind of a case is yours? He said, Well, I am accused of stealing an automobile. He said, Well, if that is the case come down to the office tomorrow morning at nine o'clock and then they left. He then came back to the library where we were sitting and he sat with us. Anything else?

Q. Mrs. Goodman was a guest of yours on that night at dinner? A. Yes, sir. At dinner. She had been with us all day long at Sandy Beach.

Q. But she lives in the neighborhood, does she? A. She lives at Keyworth Avenue.

Q. Not very far from your home? A. Not very far, no, sir.

Q. As I understand it she dined with you and then after you all came out from your dinner the scene that you have pictured occurred and you walked to the room door where your husband was talking with these men and then walked with him behind these men out through the kitchen— A. Out through the kitchen.

Q. Out into the back yard towards the gardener's house? A. Yes.

Q. And then you walked back by the— A. Port cochere.

Q. Yes. And came in that way and notified Mrs. Goodman that her car was there? A. Yes, sir. My car.

Q. That your car was ready? A. Yes, sir.

Q. You were sending her home? A. Yes.

Q. You notified her that your car was ready? A. Yes, sir.

Q. Now, Mrs. Wolf, you spoke of going into the kitchen you and your husband together, and Mr. Wolf saying, Florence, do you mind these men washing up or something of that kind and give them something to eat? Who was Florence? A. My colored cook.

Q. Your cook? A. Yes, sir.

Q. Colored? A. Yes, sir.

Q. Was anybody else in the kitchen beside the cook and you and these two men that had come out there? A. The butler had come back.

Q. Was he a colored man? A. Yes, sir. Her husband.

Q. The husband of your cook? A. Yes.

Q. Now, was anyone else out there do you know? A. The maid was in the pantry but she was not in the kitchen.

Q. Wasn't the chauffeur there? A. He was in the pantry finishing his dinner.

Q. He was finishing his dinner in the pantry? A. Yes, sir.

Q. Did you just tell the honorable Court whether you heard all that Mr. Wolf said to these men on this occasion? A. Certainly I did. Can't help but hear when all the doors were open.

Q. And the doors leading out of the rooms into the hall were all open? A. All open.

Q. Now, then, the door between the dining room and the library in which you were sitting, was that open? A. Yes, sir.

Q. Now, Mrs. Wolf, you have stated the arrival of Mr. Hammersla and that Mr. Wolf went out on the porch, that is the north porch? A. Yes, sir, the screen door.

Q. And closed the screen door after him? A. Yes, sir.

Q. During the time he was out there which has been described by Mr. Hammersla as about a half hour, and I think by Mr. Wolf as about that time, do you know where these men were, what part of the house they were in? A. I presume they were in the dining room, but I did not see them. We heard voices in there, murmuring.

Q. You could hear them murmuring? A. Yes, sir.

Q. Talking low? A. Whoever were in there, yes, sir.

Q. Do you understand while Mr. Captain Hammersla was there that the car arrived with some other men who wanted to see Mr. Wolf? A. Well, I cannot say, I was not out there, but I heard the men's voices afterwards.

Q. You heard the men's voices? A. I heard the men's voices as they came in the hall.

Q. And Mr. Wolf had not come in off the porch up to that time? A. No, sir, excepting to answer the telephone.

Q. Excepting to answer the telephone as you have described? A. Yes, sir.

Q. Now, there was more than one occasion he was called to the telephone? A. Oh, several times he was called to the phone that evening.

Q. I mean during the time from the arrival of Captain Hammerslea until these gentlemen arrived who wanted to see him? A. Yes, sir.

Q. Did he talk with those men on the porch or inside of his house? A. He talked to them, I should say, at the door of the dining room.

Q. No, I am not speaking now of the men who came in the car; the three men? A. Oh, he talked to them in the hall.

Q. In the hall? A. He did not take them into any room.

Q. They were discussing something, you say, about getting a bond to get some one released that night? A. Yes.

Q. Did they get any further in the house than the hall where he was talking to them? A. No, sir.

Q. Now, when he finished talking with them just say what happened. Did they go or come in the house and sit down, or what? A. No, sir; they left immediately.

Q. They left immediately? A. Yes, sir.

Q. What did Mr. Wolf do immediately after they left. A. He crossed the hall towards the dining-room door and I heard his voice.

Q. And that was the time you heard the conversation in which you have stated as near as you could what occurred, in which this man was saying he was innocent? A. Yes, sir.

Q. And wanted Mr. Wolf to take his case. About how long, Mrs. Wolf, did that conversation last? I mean the last conversation before these boys left, when one of them was protesting his innocence and asked Mr. Wolf to take his case? A. Oh, I should judge about five minutes.

Q. About five minutes? A. Yes, sir.

Q. And then they left? A. They left.

Q. And as they went out you say one of them turned back and said, Will you take my case—I am charged with stealing an automobile? A. Yes, sir.

Q. Now, you have described this visit of these three men who came. Going back to that—talking with Mr. Wolf in the hall and discussing the question of getting bond that night and so forth. About how long do you think they were out there? A. I should say ten or fifteen minutes.

Q. I think Mr. Wolf has described it, but I would like to ask you how the house is lighted? A. We always have lights on the front porch, and we have two lights lit in the hall and a small light in the dining room until all the clearing up is finished, until we go to bed, I should say.

Q. On this occasion when you walked over to join your husband, who was talking to these men at the reception room—was that lighted? A. That was a big light in there, the center light.

Q. And how about the windows? A. All open. It was summer time.

Q. And the front porch lit up? A. Yes, sir.

Q. And that opens on the front porch? A. Which?

Q. I mean it looks out on the front porch? A. Yes, sir.

Q. What was Mr. Wolf's condition? I mean by that, if you can describe it, if I may lead you to that extent. Was he excited or not? A. As I said, I had never heard him greet people in that fashion before. He is usually glad to see people. He was excited.

Q. From the greeting he was excited? A. Yes, sir.

Q. And how about you? A. I was, too.

Q. Now, why were you excited, Mrs. Wolf? A. What was that?

Q. I say, why were you excited? A. Because of the appearance of these fellows, and I realized something was wrong.

(Mr. Poe): No questions, madam.

(Mr. Wolf): Now ask the Judges to ask anything they want, Senator, will you please?

(Mr. Robinson): Do you want to ask the witness anything, any of you gentlemen? That is all; step down.

(Examination concluded.)

Thereupon MISS CLARA COHEN, a witness of lawful age, produced on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): Now, your name is Miss Clara Cohen?
A. Yes.

Q. And you live in New York City, I believe? A. I do.

Q. And I think you are a school teacher, aren't you? A. I am.

Q. And you are a sister-in-law of Mr. Wolf's, are you not?
A. I am.

Q. You and Mrs. Wolf are own sisters? A. Yes, sir.

Q. Now, Miss Cohen, were you visiting your sister, Mrs. Wolf, on Wednesday, the 23rd of last August? A. I was.

Q. Now, won't you tell us just what happened that day, beginning at the time you left Sandy Beach? A. It was very beautiful at Sandy Beach, so we stayed there until the last minute.

(Witness): It was very beautiful at Sandy Beach, so we stayed there until the last minute, which made us late reaching Mr. Wolf's office. He was ready for us, so we only had to wait

there a very few minutes. We left Mr. Wolf's office and stopped at Mrs. Crone's house, where she went home. Then we continued on out to the house. At the house we women folks went upstairs and dressed for supper.

(Witness): We went upstairs to wash up before having our dinner, and we came down shortly afterwards and dinner was served, and while we were at the table the bell rang. We were short of help, so I said I would go to the door. I went to the side door, and there were two very disreputable-looking men standing there. They asked if Lawyer Wolf was at home, and I said yes, and the name. They said they did not wish to give any name, because Mr. Wolf would not know them. So then I asked them whether they preferred sitting indoors or outside, and they preferred sitting indoors, so I immediately showed them into the reception room and turned on the light. I went into the dining room and I was very much excited, because we were not used to seeing such wretched-looking people, and I

said, Oh, there are two of the worst-looking men to see you, and Mr. Wolf said, Well, keep calm about it; sit down. We sat down and finished our meal in leisurely fashion, as we always do, talking about things that happened during the day. When dinner was over Mrs. Goodman, mother and myself started out of the door that leads into the hall, and on our way to the library we were in front, Mr. and Mrs. Wolf in back of us, and we were just about in the library when we heard Mr. Wolf say—shall I use his language?

(Mr. Dennis): You will have to, I am sorry to say.

(Witness): What in hell are you doing here; how did you get here? And then he said you better go out—

Q. Let me interrupt you just a moment. Where were the men then? A. In the reception room where I had shown them when they came.

Q. After he said what in hell are you doing here, what happened? A. Then he said you better go out back and wash up. We continued sitting in the library, sewing and talking, and they continued to the back of the house, and later in the evening Mrs. Wolf came to the side porch and she called Mrs. Goodman to say that the car was ready to take her home, and Mrs. Good-

man said good night and left. After that the doorbell rang again and I went to the door. I asked who it was; the name, Mr. Hammerslea. I asked him whether he preferred sitting indoors or outside, and he preferred outside, so I left him sitting in the hammock. I went into the house and found Mr. Wolf just coming out the door that leads from, well, it is just outside the breakfast room, leads between the kitchen and dining room, and these two men were standing just within that door on the dining-room side. He was coming towards them, and I said, Mr. Hammersla to see you, and he said to these men, Take a seat over there, motioning to the back of the dining room, and Mr. Wolf went out on the porch and spoke to Mr. Hammerslea. Can you hear me now?

(The Court): Yes.

(Witness): We continued sitting in the library reading, or, rather, sewing and talking, and the telephone rang several times. Each time that the telephone rang I went to the side porch and called "telephone," and that was the signal for Mr. Wolf to come into the house to answer the telephone, and he came into the library where we were sitting to answer it each time. Then after that we heard voices in the hall again, Mr. Wolf's voice among them. Some people had come out there: they were in trouble and wanted to get some man out on bail and were trying to persuade Mr. Wolf to have that man released that night. Of course, he kept saying he could not do it, but they were persistent in trying to get him to do it, naturally.

(The Court): That is the three men about bail?

(Witness): Yes. Then Mr. Wolf came into the house again; he walked over to the dining room and I heard a voice say, Now, Mr. Wolf, I want you to hear my story. He said, I don't want to hear anything about it. He said, Well, I didn't do this thing, Mr. Wolf; I want you to listen to me, want you to hear what I have to say, and Mr. Wolf kept saying, No, I don't want to have anything to do with it; you are guilty or you are innocent; there is only one thing for you to do, and that is give yourself up, and they were just about going out the side hall when I heard another voice say, Well, will you take my case; I am in a little trouble; have been accused of stealing an automobile; so Mr. Wolf said, Well, if you want to see me about that, come down to the office tomorrow morning at nine o'clock.

Q. (Mr. Dennis): Now, that is the time that they left? A. Yes.

Q. Let us go back just a little bit. Do you recall about what time you and Mrs. Wolf and the other ladies you have mentioned got back to Mr. Wolf's house from Sandy Beach that night? A. It must have been at least quarter of eight.

Q. About quarter of eight? A. Although I could not say exactly.

Q. Do you recall about what time you sat down to dinner? A. Possibly eight o'clock.

Q. Now, then, after you had been at dinner some little time, or some time, you say you heard the doorbell ring? A. Yes.

Q. Can you approximate how long you had been at the table before you heard the bell ring? A. Well, I don't think we had reached very far in the dinner; we hadn't eaten very much.

Q. About how many minutes would you judge? A. I should imagine about ten or fifteen minutes.

Q. And you heard the doorbell, and, being short of help that night, you went to the door? A. To the door.

Q. That is the door on the north side of the house that opens on the porte cachere? A. The one that opens on the porte cachere.

Q. And there you met these very rough men you have described who wanted to see Mr. Wolf? A. Yes.

Q. Did you ask them their names? I certainly did, and they said there was no name, that Mr. Wolf wouldn't know them.

Q. And you asked if they preferred indoors or out, and they preferred to come inside A. Yes.

Q. What did they look like? How were they dressed? A. Very dirty; no collars on; shirts turned in. I am not sure that they had hats on, but their hair looked mussed as it looks when rather long and it needs cutting. They were very unkempt looking.

Q. You invited them into the reception room and asked or let them sit down? A. Yes.

Q. And the reception room is on the north side of the broad hall that runs east and west through the house, isn't it? A. Yes.

Q. And you turned on the light? A. Surely.

Q. How was the rest of the house before that—was it lighted or not? A. We always have light.

Q. Were the blinds up? A. Always.

Q. Windows up? A. Always. It was in the summer time.

Q. Light on the front porch? A. We always have the light on the front porch.

Q. Now, after letting these two desperate-looking men in, just as you have described, and letting them be seated in the reception room, you went back to the dining room to receive your dinner? A. Yes.

Q. And you reported to Mr. Wolf what? A. That there were two very rough-looking men to see him.

Q. And he told you? A. Not to be excited, and to sit down.

Q. How long did it take you to finish dinner that night after these men arrived? In other words, how long did they sit in this reception room waiting to see Mr. Wolf while Mr. Wolf was finishing his dinner—about? A. Well, I think that ordinarily it takes between thirty and forty minutes to eat a meal, and our meal was naturally long that night because we only had one maid waiting on the table. The regular butler was off, you see, on his vacation, and the maid waited on the table, so it was rather slow and we had not gone very far with our meal, so I imagine they were there at least twenty minutes before Mr. Wolf saw them.

Q. You also had a guest at dinner that night? A. Yes; Mrs. Goodman.

Q. And did you discuss the experiences of the day after dinner and at dinner? A. We did. We always do.

Q. Took it along leisurely and slowly. After dinner I think you said that your mother and Mrs. Goodman and yourself preceded Mr. and Mrs. Wolf out of the dining room? A. We did.

Q. And you headed for the reception room and did enter the reception room? A. No; we went to the library.

Q. I mean drawing room—the library—that is the room to the south side of the house, isn't it? A. Yes; directly opposite the reception room.

Q. And it adjoins the dining room? A. Yes.

Q. And is there a connecting door between the library and the dining room? A. There is a small door to the left.

Q. Was that open? A. Yes.

Q. Was it open all the time these boys were there? A. It is never closed.

Q. Where did Mr. Wolf go? A. When?

Q. Immediately after he got up from the dinner table? A. He started over to the reception hall, to the reception room.

Q. And that is the time he saw these two boys in there? A. And when we heard him exclaim.

Q. And he used that profane greeting? A. Yes.

Q. And you said he then told them to go on back; you mean back to the kitchen? A. Yes, to the back of the house, to wash up.

Q. And he and Mrs. Wolf followed them? A. Yes.

Q. Mrs. Wolf returned— A. After Mrs. Goodman had gone home she came back.

Q. She came back to the library where you were? A. Where we were sitting.

Q. Do you know about what time Mrs. Goodman left, how long after you had gotten up from the dinner table? A. I should say about ten minutes after we got up. Just a few minutes.

Q. Now who took her home, do you recall? A. I think Charles, our chauffeur.

Q. Charles, the chauffeur, took Mrs. Goodman home about ten minutes after you were through supper. Now, then, when did Mr. Hammersla arrive in reference to Mrs. Goodman's departure, do you remember? A. Almost directly afterwards, almost directly after she had left.

Q. When Hammersla rang the door bell—the same door the other boys had come through? A. Yes.

Q. You also went to let him in, did you? A. I did.

Q. And you came back to announce that Mr. Hammersla wanted to see Mr. Wolf? A. Yes.

(Mr. Dennis): Where did you find Mr. Wolf when you went to tell him about Hammersla?

A. He was coming through the door that leads to the dining room. There is a little hall, and he was just coming through that door into the dining room.

Q. And where were the two boys? A. Standing right there at that door. They were facing the door that leads into the hall, and he was just coming through that door.

Q. What did you say to Mr. Wolf? A. I simply said, Mr. Hammersla to see you. His name did not mean anything to me.

Q. What did Mr. Wolf say to the two boys? A. He said you go sit down back there.

Q. Did they do it? A. They did. I suppose they did. I did not wait to see.

Q. Where did Mr. Wolf go then? A. He went out on the porch.

Q. Do you know how long Mr. Hammersla was there about, please, Miss Clara? A. Well, with all of the interruptions, he may have been there half an hour, about half an hour.

Q. The three men who came in to see Mr. Wolf about the liquor case, you did not let them in, did you? A. No. I didn't even know that anybody had arrived until I heard the voices in the hall.

Q. They came in with Mr. Wolf himself from the porch, did they? A. They must have, because I didn't let them in and nobody else did.

Q. After they left, what did Mr. Wolf do?

(The Court): Do you not want to ask how long they were there, first?

A. They were there about fifteen minutes I should say.

Q. And Mr. Wolf refused to go down town to get bail that night at that time? A. He said it positively could not be done, that it was too late.

Q. Now, then, do you recall Mr. Wolf having telephone calls while Mr. Hammersla was there? A. Several, and each time I went to the little hall, which is at right angles to this big hall, and called "telephone," and Mr. Wolf would come in and answer the phone in the library where we were sitting.

Q. Do you know where the taxicab that these boys came in was all that time? A. No. I was not out on the porch except to let Mr. Hammersla in. I only went to the south side door.

Q. Now, then, after these three men left—you say they stayed about fifteen minutes—where did Mr. Wolf go and who did he see and talk to? A. He came in from the side porch and went into the dining room and then we heard the loud voices talking there.

Q. Who was doing the talking? A. One voice and Mr. Wolf.

Q. Could you hear them distinctly? A. Very. Everything was open and we were very excited naturally listening.

Q. What were you all excited about? A. Well, there was a feeling of tension right through the house from the time I left those two boys in.

Q. What did you hear Mr. Wolf say to these boys? A. He said that he did not want to have anything to do with them at all, that if they were in trouble, whether they were guilty or innocent, they should give themselves up, that that was the right thing to do.

Q. About how long did this crossfire between Mr. Wolf and the boys continue? A. A very few minutes.

Q. In other words, how long after the three men left was it that Socolow and Keller left? A. Well, as far as I can tell it was just a very few minutes. It does not take long to tell them, you know, although they repeated the statement several times and tried to get Mr. Wolf to change his mind about hearing what they wanted to say. It was just a very few minutes, it couldn't have been even five minutes.

Q. Were these two boys ever out on the south porch while at the house? A. No, they were not.

Q. Were they ever out in the sun parlor? A. They were not.

Q. Now then, as the boys were going out to their automobile, after Mr. Wolf had told them he would not take the case and would not have anything to do with it, and, guilty or innocent, to give themselves up, did you hear anything further? A. Yes. I heard the voice when they got as far as the hall, that is, at right-angles to the main hall, speaking about the trouble, about the automobile having been stolen and whether Mr. Wolf would take his case; and Mr. Wolf said that if he were in trouble about that he could come down to the office the next morning at nine o'clock.

Q. Could you hear all of the conversation between Mr. Wolf and these two boys in the dining room that night? A. Very easily. He never talks very softly.

Q. And did he talk any different that night from what he ordinarily does? A. Well, I think a little more excited than usual. As I say, we all seemed to feel a certain tension.

Q. Now, how long do you think the boys were in the dining room waiting for an opportunity to talk to Mr. Wolf? A. Well, if he was talking to Mr. Hammersla for a half hour, and spoke to those men in the hall, it must have been at least three-quarters of an hour.

Q. And they left immediately. Now, during all the time that they were there—I mean Socolow and Keller—was the house lighted up? A. Absolutely.

Q. Was the door from the dining room to the library, where you were seated, open? A. Yes, sir.

Q. And how many people were in the library during the time that these boys were waiting in the dining room? A. Three of us—my mother, Mrs. Wolf and myself.

Q. Did they have an equal opportunity with yourself to hear all that went on between Mr. Wolf and these two young men? A. They surely did.

CROSS-EXAMINATION.

Q. (By Mr. Poe): Miss Cohen, what was the name of the butler? A. George.

Q. What was the name of the chauffeur? A. Charles.

Q. And you say that George was off on his vacation I understand? A. He was.

Q. Well, now, one minute, please. Now then, there was a small door connecting between the dining room and the library where you ladies were sitting? A. Yes.

Q. And that door was left open the entire time? A. Absolutely.

Q. And you could see into the dining room? A. We did not look into the dining room.

Q. Well, could you see from where you were sitting? A. No, I was sitting with my back to the dining room.

Q. How far were you from the door leading to the dining room? A. It is only a very few feet, because there is a large table in that library and we were seated at that table sewing.

Q. Where were these boys sitting? A. When I left Mr. Wolf and I told him that Mr. Hammersla was there, he told them to sit down at the farther end of the dining room because there just happened to be two chairs there.

Q. Did they do it? A. I didn't see them there.

Q. Didn't take the trouble to see where these desperate looking characters were after Mr. Wolf left? A. Well, you could hear them if they moved, because everything was all open.

Q. Did they move? A. I don't think they did. We could hear them talking, couldn't understand what they were saying but you could hear the buzzing coming from the room.

Q. Could you go out from the sun parlor without going through the library? A. Yes.

Q. Could you get from the sun parlor to the south porch without going through the library? A. You could.

Q. The library lights were up, weren't they, when Mr. Wolf was bringing these two boys in from the pantry to the dining room? A. Yes.

Q. And you came in and in the presence of these two boys reported to Mr. Wolf that Mr. Hammersla was there? A. Yes.

Q. Did the boys seem to be very much alarmed? A. Didn't strike me that they were alarmed.

Q. Did you know at that time who these boys were? A. Hadn't any idea.

Q. You didn't know it was Socolow, did you? A. Hadn't any idea.

Q. Didn't know that was one the police were looking for, did you? A. No, sir.

Q. You have been describing them as rather desperate looking characters— A. I said they were dirty looking, ruffianly looking.

Q. They frightened you, didn't they? A. Yes. They looked like ruffians.

Q. And yet you reported back to Mr. Wolf, most terrible looking men you had ever seen almost, and Mr. Wolf did not get up from his chair to leave the table to go out and see who they were? A. He did not. He told me to keep calm.

Q. Did you follow his instructions? A. I tried to the best of my ability, I was outwardly calm.

Q. Well, these boys were invited into the house? A. Yes.

Q. Told to take a seat in the reception room? A. Yes.

Q. And although you reported to Mr. Wolf their condition, and you were alarmed by their appearance and showed by your actions that you were alarmed, Mr. Wolf did not go in to see who they were. Is that what you say? A. Absolutely.

Q. And although you knew that these boys—although you were still alarmed after Mr. Wolf went out on the porch, talking to Mr. Hammersla, and there was this tension all through the house, although you did not know who the boys were and although Mr. Wolf had left them in the dining room, right alongside of you, you ladies left the door open so these boys could hear you and you could hear them, is that it? A. Well, that door never is closed.

Q. It could be? A. It could be, but it never is.

Q. What kind of door is it? A. A sliding door.

Q. If the door had been closed you could not have heard, could you? A. But we did hear.

Q. If the door had been closed you could not have heard, could you? A. We could have heard because that house—the acoustics are very wonderful in it, and the door remember from the dining room into the main hall, there were no doors there

at all that were closed, and you could hear anyhow through that door, you could not help hearing.

Q. When Mr. Wolf brought these boys into the dining room and you came in and announced Mr. Hammersla, had Charles the chauffeur, gone off with Mrs. Goodman, I think you said? A. Yes.

Q. Charles had gone then? A. Yes.

Q. And George, the butler, was on his vacation? A. Yes.

(Mr. Poe): That is all.

(Witness): I hadn't seen him at all.

(Mr. Dennis): Now, Miss Clara, as a matter of fact George, the butler, had gone on his vacation, but he had got back—

(Mr. Poe): I object. That is absolutely improper.

(Mr. Dennis): When did the butler get back?

A. Well, I didn't see him that night at all. I didn't even know he was back, because he had not waited on the table. I was not in the kitchen.

(Examination concluded.)

Thereupon, MRS. ROSE H. GOODMAN, a witness of lawful age, produced on behalf of the defendants, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Robinson): Your full name? A. Rose H. Goodman.

Q. What is the name, please? A. Mrs. Rose H. Goodman.

Q. You are married? A. Yes, sir.

Q. Where do you reside? A. 2500 Keyworth Avenue.

Q. Baltimore City? A. Yes, sir.

Q. Do you remember the evening of Wednesday, August 23rd? A. Yes, sir.

Q. Where did you spend that day? A. On the morning of August 23rd Mrs. Wolf called me up and invited me to spend the day at Sandy Beach. We left around twelve o'clock and in the machine going to Sandy Beach was Mrs. Wolf, Miss Cohen, the chauffeur, Mrs. Crone, the baby and myself. We spent the day there and I should judge around six-thirty we left Sandy Beach to call for Mr. Wolf at the office and on the way up home in the machine I happened to mention that my husband would not be home for dinner, that he was in Washington, and Mr. Wolf suggested that I go home with them for dinner. I accepted the invitation and we rode along and on our way stopped at Mrs. Crone's home on Forrest Avenue and we left her there, chatted a few minutes and then we left and went to the home of Mr. Wolf and after we got in we went upstairs and washed up a bit and we came downstairs and sat at the table and were having dinner.

Q. Pardon me, but do you know about what time you got to Mr. Wolf's residence? A. Well, I should judge it was around ten minutes of eight, quarter of eight, sometime like that, and while we were at dinner the bell rang and Miss Cohen volunteered to go to the door, and she came back and she said, Harry, two terrible looking men are at the door and want to see you, so he said, Well, just don't bother, sit quietly, and we continued with our meal. After the meal was served and we finished our meal we still sat talking, discussing all that we did at Sandy Beach and about the baby, how he enjoyed himself, and we did not—we were not in any apparent hurry to leave the table.

Q. Mr. Wolf there all the time? A. Yes, sir; he did not leave the table while I was there. And after dinner, after we got into the hall and Mr. and Mrs. Wolf followed, and I was going into the library door, in the library, and I heard Mr. Wolf approach some people and say what in hell are you doing here, and, damn it, how did you get here; and then I felt immediately that there was something wrong but I went in and quietly sat down and I was seated a very little while when I heard Mrs. Wolf call to me that the car was ready, and I left.

Q. Where was Mrs. Wolf at the time that Mr. Wolf had made this exclamation that you describe? A. I did not see Mrs. Wolf. I was in the library.

Q. She did not come in the library with you? A. I did not see Mrs. Wolf any more until I heard her voice and then I went out to the car.

Q. You were riding home I believe in her car that evening? A. Yes, it was her car.

Q. Do you know whether the men who had gone in the reception room, these men referred to by Miss Cohen as the men she had left in, whether they left the reception room? A. Yes; I heard Mr. Wolf say you fellows go back there and wash up, and Mrs. Wolf must have gone along with him because she was out in the hall at the time.

Q. And did not join you in the library any more? A. Not at all, I did not see Mrs. Wolf at all.

Q. And the next thing you heard, Mrs. Wolf notified you that the car was ready, and you got in and left? A. And I left.

Q. She called you from the hall, did she? A. Yes, sir.

Q. From this large hall into the library that the car was ready and you went out and got in? A. Yes, sir.

Q. Do you know whether the reception room was lighted or not? A. Yes; the whole house was lit up.

Q. How about the porches? A. Porches lit, always lit.

Q. And the windows? A. The windows were open.

Q. How about the doors? A. There weren't any closed doors that I saw.

(Mr. Poe): No questions.

Thereupon MRS. BLANCHE CRONE, a witness of lawful age, produced on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Robinson): Your name is Mrs. Crone? A. Mrs. Blanche Crone.

Q. Where do you reside? A. At the corner of Forrest and Stratford Avenues.

Q. Do you remember the 23rd of August last, Wednesday, the 23rd of August? A. I do.

Q. Where were you that day? A. We spent the day at Sandy Beach.

Q. Who with? A. Mrs. Cohen, Mrs. Wolf, Mrs. Goodman, their little boy and the chauffeur was along and myself.

Q. How did you go? A. By machine.

Q. In a car? A. Yes; in a machine.

Q. In Mr. Wolf's car? A. In Mr. Wolf's car.

Q. Now, on the way back did you bring any one out with you? A. I came home in the car. We stopped for Mr. Wolf at his office, when we left Sandy Beach; waited there a few minutes for him, and when we got home, to my home, I judge we reached there about twenty minutes of eight, I should say.

Q. About twenty minutes of eight? A. Yes; stopping a few minutes, for my husband had a few words to say to Mr. Wolf. They talked and then the car drove on.

Q. In other words, your home was between Mr. Wolf's office and his home? A. A very short distance from Mr. Wolf's home.

Q. And it was about twenty minutes of eight when you got to your home, and then they went on; he talked with your husband? A. For a few minutes.

Q. And then the car went on? A. Drove on to his home.

Q. You say it is a short distance. In a general way, is it a mile or two miles or three miles? A. From my home to Mr. Wolf's?

Q. Yes? A. I should judge about a mile.

(Mr. Poe): No questions.

Thereupon MRS. FREDERICKA COHEN, a witness of lawful age, produced on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. Mrs. Fredericka Cohen is your name? A. Yes, sir.

Q. And where do you reside? A. 606 West 113th Street, New York City.

Q. Now, you will have to speak so their Honors can hear you, if possible. Mrs. Cohen, where were you on the—oh, pardon me. Just withdraw that question. What relation are you to Mrs. Wolf? A. Her mother.

Q. And where were you on the twenty-third of August last? A. We had all gone down to Sandy Beach for the day.

Q. You were staying at your son-in-law's, Mr. Wolf's? A. Yes, sir.

Q. And had been there for some time? A. Yes, sir.

Q. About how long? A. Well, from the fifteenth of June.

Q. Who compose Mr. Wolf's family? A. His family—his wife and four children.

Q. His wife and four children? A. Yes.

Q. How old are they? A. The oldest boy is about seventeen and a half and the youngest about six. You want the ages of the others?

Q. Well, no; that is just in a general way. Now, you had been at Mr. Wolf's home since June, and on this twenty-third of August you say you went down to Sandy Beach with the family? A. Yes, sir.

Q. The witnesses have described who went with you. You left Mr. Wolf's house that morning in company—who composed the carload? A. Mrs. Wolf, my daughter, Miss Clara, Mrs. Goodman, Mrs. Crone, the baby, the chauffeur and myself were in the car. And we went down to Sandy Beach, had a very pleasant afternoon, and left there in time to call for Mr. Wolf at the office; we waited a few minutes at the office and then started on our way home, stopping at Forrest Avenue to let Mrs. Crone out at her home; talked there for awhile and then went on to our home, went upstairs and got ready for our dinner, which was announced a few minutes afterwards.

Q. Do you recall about what time you arrived at Mr. Wolf's home that evening? A. Oh, I don't know what time we arrived, but possibly about quarter of eight, ten minutes of eight.

Q. And after you had retired and fixed up for dinner you came down immediately to dinner? A. Yes, sir.

Q. And that was about how long? A. Well, I should say we started our dinner about eight o'clock.

Q. Now, who were at the dinner table that evening? A. Mr. and Mrs. Wolf, Mrs. Goodman, the baby, my daughter and myself—my other daughter I mean, Miss Clara, my unmarried daughter.

Q. Do you recall the doorbell ringing after you had started dinner that evening? A. Yes, sir.

Q. Now, just tell their Honors just what you know about that? A. The doorbell rang and my daughter Clara went to the door, and she came back and she seemed terribly excited, and she said, Oh, two of the worst-looking characters I have ever seen to see you, Harry, and he said, Well, don't get too excited, it is all right; sit down and we will finish our dinner, and I think he said, Did you take them into the room or show them to a room, and she said yes, they were in the reception room. We continued with our dinner and talking about the afternoon, what we had done and how we had enjoyed ourselves, and we were not in any hurry at all to leave the table, and when we were through dinner I think I was the first one to leave the table and go out in the hall towards the reception room or the library, the rest of the family following me, and I had just about gotten in the li-

brary when I heard Mr. Wolf in very loud tones say—will I go on just the same?

Q. Yes; just tell what he said? A. Well, where in hell did you come from? How did you get here? And it was so unusual. I had often known Mr. Wolf to have callers, for I spend a great deal of time there, and I had never heard him talk to any clients in that tone. I immediately turned and was surprised to see Mrs. Wolf had joined him.

Q. Had joined him? A. Had joined him at the door there, talk to these people, whom I did not see, and then he said, Go in and wash up, and Mr. and Mrs. Wolf followed them.

Q. Mr. and Mrs. Wolf followed them? A. Yes.

Q. Now, in what direction did they go? A. They went back in the hall towards the kitchen.

Q. They were ahead and Mr. and Mrs. Wolf following them? A. Yes, sir.

Q. Now, when did you next see Mr. and Mrs. Wolf or these men? Did you go out of the library? A. I didn't go out at all; I didn't see them at all.

Q. Oh, I see. You didn't see them at all? A. No, sir. I stayed in the library, but there had been repeated calls afterwards.

Q. Now, were there any calls over the telephone that were answered by Mr. Wolf in the library? A. Yes, sir.

Q. While you were there? A. Yes, sir.

Q. And have you any idea how many? A. Oh, there were quite a number. It was a very busy evening.

Q. Quite a number of calls? A. Yes, sir.

Q. And each time he would come to the telephone in the library to answer the call? A. Yes, sir.

Q. Now, did anyone else come to Mr. Wolf's house that evening that you know of? A. Yes, sir. The bell rang and my

daughter went to the door, and she came back and said Mr. Hammersla, and then—

Q. Mr. Hammersla that was? A. Mr. Hammersla.

Q. Now, how long was that after Mr. Wolf, you heard him say go back and wash up, and he and his wife walked towards the kitchen door? A. Well, it might have been ten or fifteen minutes because in the meantime Mrs. Goodman had been called, that the car was ready, and she went home.

Q. You have no way to measure that time of course? A. No, sir.

Q. But you are just estimating it. Now, then, Mr. Hammersla was announced and do you know whether Mr. Wolf went out to see him? A. I understood he did, that he went out to the porch. I was in the library, that he went out to the porch. I was in the library, I did not see any of the movements at all, I could only hear the voices.

Q. Were you engaged in any work of any kind? A. We all thought we were working, we had a little work in our hands and thought we were working, but we were all terribly excited.

Q. Did Mr. Wolf seemed to be excited? A. Just as much as we were, which was very unusual for him, because in all the time that I have been at the house and the many visitors that he has had, we had scarcely ever heard one word that he said to his clients.

Q. Now, then, after Mr. Hammersla was there—arrived—do you know whether later on any other people came to that home? A. Yes, sir: there were other voices in the hall, there were some men there and they wanted him to go on, to furnish bail or to make arrangements to furnish bail, and he said it was very late and he could not do anything, and they persisted and said they knew it had been done other times and wanted it done, and finally persuaded he couldn't do anything that night, and to come to the office in the morning, and see what he could do, and they left.

Q. Was there any difficulty in hearing the talk of Mr. Wolf that night? A. Not a particle.

Q. How were the doors and windows? A. All open.

Q. And the lights about the place? A. All on.

Q. And how about the lights on the porch? A. They are always lit every evening.

(The Court): Right there: what was the reason for the lights being on; do you remember whether the day was cloudy?

A. Well, it was night by this time.

(The Court): We had daylight saving at that time, eight o'clock at night was seven by sun time. The sun was shining.

(Witness): Well, not after eight o'clock at night the sun was shining.

(The Court): That was seven o'clock by sun time.

(Witness): Well, at eight o'clock—in the dining room, the middle room, we always have light in the dining room, even during the day.

(The Court): Then the sun was not shining that day, at this time?

A. Well, after eight o'clock it was not. It had been a beautiful day. We always have light at a meal.

Q. (Mr. Robinson): As a matter of fact, whether you were going by the city time or the Lord's time, whatever it was, was it or not dark enough to light up the house at the time you went to dinner? A. We always have light in the dining room even at a mid-day meal, we have some light in that dining room.

Q. Do you know, so far as the sun was concerned, whether it was down? A. Well, I really couldn't say what it was on the outside.

Q. Or whether it was dark? A. But my recollection was that by the time we reached home that it wasn't very bright. I could not say.

Q. Do you remember whether the lights were on that night when the car came home? A. Well, I could not say that, but I know when we finished our dinner the lights are always turned on, or earlier if it is dark.

Q. Well, anyhow, after these men came there that were discussing a bond, and you said you heard the talk very clearly out in the hall, now after that—by the way, do you know whether those men came any further than the hall or not, or whether they came in and sat down—they were the men that came about the bond? A. Well, I couldn't say but I imagine they were grouped about the clock, it seemed to me that was just about the center of the hall towards where they were.

Q. Towards the staircase? A. Yes.

Q. Did you hear them go? A. Yes, sir.

Q. Now, after they went which way did Mr. Wolf go, after these men? A. Well I didn't see—

Q. Did you hear any talk by Mr. Wolf after these men went—I am not talking about these two rough looking characters you speak of but the gentlemen who came there about a bond. Now, after they left did you hear any talk with Mr. Wolf and anyone in the house? A. No, sir.

Q. Did you hear him come to the dining room door and say anything to these men who were there? A. I heard him say, as soon as he seemed to have gone with these men and shown them the door, and he came back, I heard voices then say now, Mr. Wolf, I want to tell you my story, and Mr. Wolf said, I don't want to hear your story. Well, I am innocent and I want you to help me. Innocent or guilty—now this is as near as I can remember; they may have said oftener or perhaps added a little—but innocent or guilty, there is only thing for you to do and that is to surrender, go right down town and give yourselves up, and they persisted they were innocent, he was innocent and he wanted to tell his story; and Mr. Wolf said, No, I will have nothing to do with the cases.

Q. Was that talk loud enough to be heard by you and the other ladies in the library? A. Positively, very loud, anyone might have heard it.

Q. Would it have been difficult for anybody on the porch to have heard it? A. Well, I don't think it would be.

Q. However, you heard it? A. I heard it.

Q. After he said innocent or guilty, there is only one thing to do, give yourself up, what did they do? A. Then I heard the footsteps, and another voice said well will you take—

Q. Now which way did they appear to be going? A. They were going out the side door to the porch—well, will you take my case. What is your case. I am accused of stealing an automobile. Well, you come to my office tomorrow morning at nine o'clock.

Q. Now you heard that voice call back to him? A. Yes, sir.

Q. Now after that what became of them? A. Well, they went right out.

Q. And where did Mr. Wolf go? A. I think he came right into the library where we were sitting, but a few minutes afterwards—now whether he took up the paper to read, as had been his custom, or he went directly to the phone or not I don't know, but he went to the phone and he called—I don't know the number, but he asked for Captain Leverton.

Q. Captain Leverton? A. And Captain Leverton came to the phone, and he said to him come to my office tomorrow morning at nine o'clock, I may have important news for you.

Q. He was talking from his library at that time? A. Yes, sir.

Q. And who besides you and Mr. Wolf were in the library at the time he was talking? A. Mrs. Wolf and my other daughter.

Q. Mrs. Wolf and Miss Cohen, who has testified here in this case? A. Yes, sir.

Q. You don't know just how long that was after these boys had left? A. No, sir.

Q. Whether he came in and picked up the paper, or how long—

(Mr. Dennis): Your Honors, it may be of interest to the Court, and I am sure the other side won't oppose our stating that the Baltimore Sun of Sunday morning, August 20th, 1922—we haven't the twenty-third, but on August 20th, 1922, the Sun calendar, I will read from the Sun (reading): "Today's almanac for Baltimore—sun rises 6.24 A. M., sun sets 6.55 P. M." In other words, 7.55 P. M. which would be 6.55 by Standard Time—7.55 day light saving time.

(Mr. Dennis): 7.55 day light saving, Sunday, August 20th.

CROSS-EXAMINATION.

Q. (By Mr. Poe): Mrs Cohen, you say you heard a voice saying I am accused of stealing an automobile. Is that the language that you heard used? A. Well, perhaps he did not say I am accused, but that was the sense of it. I heard a voice say well, they say I have stolen an automobile.

Q. Now what did you hear? A. Well, I heard enough to know that he was accused of stealing an automobile.

Q. Just try to tell us what you actually heard. You said you heard a voice saying, I am accused of stealing an automobile? A. Well, he may even have said that.

Q. Was that right or not? A. He may even have said that. But that is my recollection.

Q. That is your recollection of the exact words that you heard? A. The meaning of what he said.

Q. The meaning or the words? A. The meaning of what he said. He was accused of stealing an automobile, or they say I have taken an automobile.

(The Court): Finish your answer.

A. Well, that was the meaning. I don't mean to say that I have repeated the exact words in any of these instances but I try to tell everything truthfully and as I remembered it to be.

Q. (Mr. Poe): Well, was it said in the slang way or this polished English that you have given us? A. Well, I couldn't tell you that.

Q. I swiped an automobile or something of that sort? A. I didn't see him, have never seen him and don't know how he might tell it, but I know I heard it and understood that he had been accused of stealing an automobile.

Q. But you certainly must have heard the language? A. I certainly heard the language.

Q. Was it the language of a boy of the streets? A. Well, I don't know, sir. I don't think we would look for anyone of refinement to admit anything like that.

Q. Well, some people are falsely accused? A. That might be, very often so, very often so.

Q. That is what I said? A. It is unfortunate too. That is why we are all here today.

Q. Was it a loud tone of voice? A. Loud enough for me to hear, sir.

Q. Where were you at the time? A. In the library.

Q. What part of the library? A. I was sitting at the table, the center table in the library.

Q. Was that the door leading from the library into the hall? A. Yes, sir.

Q. That door was open I suppose? A. Yes, sir.

Q. And also this door leading from the library to the dining room? A. Yes.

Q. That door was open? A. Yes.

Q. Where were the boys talking when you heard this? A. In the next room.

Q. Hadn't they gotten out of the room yet? A. Oh, when I heard them say about the automobile, they were on their way out then.

Q. Had they left the dining room then or not? A. Certainly they had when they said that.

Q. In what part of the house were they when you heard them say that? A. They were on their way going out towards the porch.

Q. How far had they gotten? A. Well, I didn't see them.

Q. Couldn't you see their backs? A. No, sir.

Q. Did you see Mr. Wolf? A. No, sir.

Q. Could you tell us about where the voices came from? A. I only know they were walking from the dining room out towards the porch, and I was seated so that I didn't see any of them.

Q. But that was the last thing you heard. You say you heard this man Socolow, I suppose, saying, Won't you take my case, I am innocent; Mr. Wolf say no, I won't have anything to do with it, innocent or guilty, and so on. Then did Mr. Wolf walk with him from the dining room when that conversation started? A. Not immediately.

Q. Well, was he walking with him from the dining room at any time when you heard Mr. Wolf refuse to take his case? A. I think he was.

Q. In other words, when Mr. Wolf made the final statement, I will have nothing more to do with it, refused to take his case, he and the others were well out of the dining room walking towards the front door? A. They were on their way, yes, sir.

Q. Then it was you heard this other voice saying will you take my case? A. Yes.

Q. Was it a loud voice? A. Yes, sir.

Q. Loud as mine? A. Well, I imagine so.

Q. I just wanted to know? A. Well, I want to tell you that we were all terribly excited, we were all terribly excited, and to say to remember everything that was said and done—in fact, I did not see any need, I had no idea of what the outcome would be. While we feared that there was something terrible going on, we none of us knew what it was.

Q. Were you excited while you were sewing there that evening? A. I tell you we thought we were sewing.

Q. What time did you go to bed that night? A. Very very late.

Q. Very, very late? A. Yes, sir.

Q. I understand you to say you did not see these two boys at all? A. No, sir.

Q. You did not see them at all, did you? A. No, sir.

Q. Didn't even get a glimpse of them? A. I didn't see them, no, sir.

Q. And yet you tell us they were sitting in that dining room for how long and you in the next room with the door open? A. Well, they were seated so that I did not see them. I did not try to see them.

Q. You did not? A. No, sir; the big wall there; the one door is at the end and the other one at the side, and I was facing the mantle.

Q. Your daughter came in and said Mr. Hammersla has called? A. Yes, sir.

Q. You knew who Mr. Hammersla was, didn't you? A. Yes, sir.

Q. What did your daughter say—Mr. Hammersla, the detective? A. No, sir. My daughter did not know him.

Q. What did she say—just Mr. Hammersla? A. Mr. Hammersla?

Q. What did you say? A. Nothing.

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

Q. But you did know he was a detective? A. Yes, sir, I knew he was.

Q. But your daughter did not know that? A. She did not know it.

Q. You also said that except for this one night—well, I don't know whether you said that. You said scarcely ever before had you heard any conversation between Mr. Wolf and any of his clients? A. No, sir.

Q. Is that true? A. Yes, sir.

Q. Mr. Wolf frequently had callers at night after you ladies went in the library, I suppose, after dinner? A. Yes, sir.

Q. Had he had any callers at night before or directly—A. I don't recall that he had. He might have had them.

Q. It was not unusual for Mr. Wolf to have callers at night, was it? A. No, sir.

Q. It was rather usual? A. He was just as likely to have them at night or day; he had them at all hours.

Q. And this is the only night you can recall that you ladies happened to overhear the conversation that he had with any one of his clients? A. Because it was so unusual.

(Mr. Poe): That will do.

RE-DIRECT EXAMINATION.

Q. (By Mr. Robinson): You say you went to bed very late that night. Why? A. Because I was so excited and so nervous I felt I could not sleep, and I just stay there, that is all.

(Mr. Poe): May I ask you one other question, which I forgot? You say he came back immediately after the boys left and called up Captain Leverton? A. Yes, sir.

Q. And said I will have important news for you. Is that all he said? A. That is all.

Q. Did you hear the whole conversation? A. Well, I couldn't hear what Leverton said.

Q. But is that all he said? A. That is all; come to my office tomorrow morning, I may have some news for you, important news.

Q. Didn't say I have important news in the Norris case? A. No, sir.

Q. Didn't say come in citizen's clothes? A. No, sir.

Q. You didn't hear that? A. No, sir, absolutely not.

Thereupon, CHARLES G. KIMSEY, a witness of lawful age, produced on behalf of the defendants, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Robinson): Your full name, please? A. Charles G. Kimsey.

Q. And where do you reside? A. Park Heights and Slade Avenue, Mr. Wolf's home.

Q. What's your occupation? A. Chauffeur.

Q. Where were you on Wednesday, the 23rd of August? A. I went to Sandy Beach from Mr. Wolf's house.

Q. Drove his car? A. Yes, sir.

Q. Who went with you? A. Why, Mrs. Wolf, Miss Clara Cohen, Mrs. Cohen, Mrs. Goodman and Mrs. Crone and the little boy.

Q. Now, what time did you leave there coming back, about? A. Well, about 20 minutes after six, between quarter after six and 20 minutes after six.

Q. That's some distance from the center of the city? A. Twelve miles, I think, sir.

Q. And where did you stop coming back? A. Stopped at the office for Mr. Wolf.

Q. At his office on Lexington Street? A. Then we made another stop for Mrs. Crone at her home on Park Heights Avenue, Park Heights and Forest Street, I think it is.

Q. And about what time did you get to Mr. Wolf's house? A. About quarter after eight, the nearest I can come to it.

Q. About quarter after eight? A. Yes, sir; between quarter after and 20 minutes after.

Q. Now when you came home did you go in the house at once? A. Yes, sir. I backed the car in the garage and went right in the kitchen.

Q. In the kitchen? A. Yes, sir.

Q. Now, who were in the kitchen when you went in? A. Well, there were Florence Taylor and Martha, I can't remember her last name, Martha—

Q. (Interrupting): Becker? A. Yes, sir; that's her name, and George Taylor was back in the pantry where I eat, and he came back while I was eating.

Q. Who is George Taylor? A. He is the butler.

Q. Where had he been? A. I believe he had been on his vacation.

Q. And had just come back that evening for the first time? A. Yes, sir; or at least that's the first time I had seen him.

Q. Did you eat your supper or dinner, or whatever it was, in the pantry, as you call it? A. Yes, sir.

Q. While you were eating dinner did anyone come in the kitchen? A. Yes, sir; just as I was finishing—

Q. (Interrupting): Now, who was it? A. There were two boys. I found out afterwards one was Socolow and one was named Keller.

Q. You didn't know at the time who they were? A. No, sir.

Q. Who else came with them? A. Mr. Wolf and Mrs. Wolf came right behind them.

Q. Walked behind them? A. Yes, sir.

Q. Did you hear any talk in the kitchen while you were there? A. Only Mr. Wolf asked Florence, he said, "Florence, would you mind letting these men wash up a little and give them a little bite to eat?"

Q. Now, where did he go after making that statement? A. He went out the back door, he and his wife.

Q. He and Mrs. Wolf? A. Yes, sir.

Q. When did you see him again? A. Well, I never saw him again until after I came back. I taken Mrs. Goodman home. Mrs. Wolf came and called me and I taken Mrs. Goodman home and I never saw him until I came back.

Q. Did these men get anything to eat? A. Well, Keller was standing at the end of the table when I went through the kitchen and went out, but Socolow was standing up over by the radiator. He was arranging his collar or tie or shirt or something. He had his back turned to me when I walked out.

Q. You don't know whether they ate anything or not? A. No, sir, I couldn't say.

Q. How long after Mr. Wolf and his wife went to the kitchen was it before you got notice from Mrs. Wolf to take Mrs. Goodman home? A. I went outside around on the side porch and I guess it was five minutes elapsed between the time I went out and she called me and said Mrs. Goodman is ready to go home.

Q. And you took Mrs. Goodman home? A. Yes, sir.

Q. In the car? A. Yes, sir.

Q. How far was it to Mrs. Goodman's? A. Mrs. Goodman I guess is may be a mile or a mile and a half.

CROSS-EXAMINATION.

Q. (By Mr. Poe): Now, what did you do after you arrived at Mr. Wolf's house and Mr. and Mrs. Wolf and their guests got out of the machine and went into the house? A. I took the car down in the garage.

Q. How far is the garage from the house? A. I judge about a hundred feet.

Q. And what did you do after you backed the car in the garage? A. Came up to the kitchen.

Q. Came right to the kitchen? A. Yes, sir.

Q. Whom did you find in the kitchen? A. I found Florence and Martha in the kitchen.

Q. And you found George there, too? A. No, sir.

Q. The butler? A. George came in while I was eating my dinner back in the pantry.

Q. What time was that? A. I thought about 25 minutes after eight, or may be 8.30, something like that. I don't remember the exact minute.

Q. How long had George been away? A. I really don't know. He was on his vacation when I came there. I had only come the Friday before that, and I really didn't know him then, but when he came in they said this is the butler.

Q. What else did they say? A. That's all.

Q. Who said that? A. I really don't remember who. Probably it was Florence, I really think it was Florence, his wife.

Q. And were you eating your dinner while the family were eating their dinner in the dining room? A. Yes, sir, always do; yes, sir.

Q. You were eating your dinner while they were eating theirs? A. Yes, sir.

Q. How long does it take you to eat your dinner? A. About ten minutes or fifteen minutes.

Q. And you had not finished your dinner when Mr. Wolf came in with these men? A. No, sir.

Q. Then, you had been eating about ten minutes when he came in with these men; is that it? A. Something like that, may be just started.

Q. And you ate your dinner when the family is eating theirs? A. I don't pay attention to exactly when they eat. When I come in and the butler gets everything ready for them, then the cook serves me.

Q. Did the butler get ready at this time? A. The butler wasn't serving then.

Q. Had they finished their dinner when the butler arrived? A. I really don't know. I wasn't in the dining room.

Q. You were in the pantry? A. But they don't eat in the pantry.

Q. Who was waiting on the table? A. Florence.

Q. What was Florence doing while you were eating your dinner? Was she serving Mr. and Mrs. Wolf's guests in the dining room? A. Really I couldn't say. I couldn't be running around watching what she was doing.

Q. But you were eating your dinner while they were eating their dinner? A. I know they served their meal in probably what they call courses, and after they get everything arranged I eat my dinner.

Q. Anyhow, the boys were brought in by Mr. Wolf just as you were finishing your meal? A. Just about that time.

Q. Had you finished or not? A. No, sir; I was very near finished.

Q. When they were brought in, when these two boys were brought in, you and George and Florence and Martha and who else was in the kitchen? A. In the kitchen? I was not in the kitchen at all when they were brought in.

Q. In the pantry? A. Yes; that is where I eat.

Q. Where did they eat? A. Martha eats—

Q. I mean these two boys, where did they eat? A. Whether they ate or not, I do not know. There was a cup of coffee sitting in front of Keller when I came through, and if they ate they ate in the kitchen, but I don't know whether they did or not.

Q. How big a man is George, as big as you? A. No, sir.

Q. Is he an able-bodied man? A. I think he is.

Q. Did Mr. Wolf seem very much excited? A. Yes; he seemed excited; there was something wrong. I could not tell whether he was excited or not, but I knew there was something wrong.

Q. Where was Mr. Wolf when you went out to get the machine and take Mrs. Crone home? A. I do not know; I say I did not see him any more after he went through the kitchen.

Q. That is the last time you saw him? A. Yes, until after I came back.

Q. How much time elapsed from the time you arrived at the house before you saw Mr. Wolf come in with these boys? A. I should judge around twenty-five or thirty minutes.

Thereupon, GEORGE TAYLOR, a witness of lawful age, produced on behalf of the defendants, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Robinson): What is your name? A. George Taylor.

Q. Where do you live? A. Park Heights and Slade Avenues.

Q. Who do you work for? A. Mr. Harry B. Wolf.

Q. How long have you been working for him? A. A little over two years.

Q. And what work do you do for him? A. I am butler.

Q. Do you remember the night of the 23rd of August last?
A. Yes.

Q. Where had you been that day? A. I had been off on a vacation; I was just ending up. I was just ending my vacation.

Q. Did you get back to Mr. Wolf's that day? A. Early that night.

Q. About what time? A. Something after eight, but I don't know exactly what time.

Q. How long had you been away? A. I went away on the 17th and returned on the 23rd.

Q. Did you wait on the table at the dinner that evening at Mr. Wolf's? A. No, sir; I did not.

Q. I believe your wife works for Mr. Wolf also, does she?
A. Yes.

Q. She is the one they call Florence? A. Yes.

Q. When did you see Mr. Wolf that evening? A. I never saw him until he came in the kitchen.

Q. What were the circumstances under which he came into the kitchen? A. After I got home I was sitting down talking to my wife about what a time I had on my vacation. I was sitting there a while and in a few minutes the door opened, the door coming out into a little hall, and out came two hard, rough-looking men, shirts open, they looked dirty, and Mr. and Mrs. Wolf behind them. Mr. Wolf came on out and he said, "Florence, you do not mind these men washing up a little?" And Florence said no. Florence told them to go to the zinc and

wash up, and before Mr. Wolf went out of the door he said, "Give them a bite to eat too, Florence," and out of the door he and Mrs. Wolf went. They were out there a short while and Mr. Wolf came back and when he came back these two men were standing up in the kitchen and Mr. Wolf said, "In that way, fellows," and those fellows went into a little hall that leads into the dining room, and after they got in the hall and had closed the door Mr. Wolf beckoned to me to come to him. I went to Mr. Wolf and Mr. Wolf said, "George, these are two bad, desperate men; you sit in that chair there by that door and if you hear any disturbance or any shuffling you step in to give me a lift."

Q. Had they eaten anything before they went in? A. I didn't see—there was only one ate, he didn't eat, but he drank a cup of coffee.

Q. Do you know which one it was? A. The smaller one, I think.

Q. What did you do when Mr. Wolf gave you those instructions? A. I went in and sat down by the door.

Q. That is the door leading from the breakfast room into the dining room? A. Yes.

Q. That was a swinging door between that breakfast room and the dining room, wasn't it? A. Yes.

Q. The breakfast room is a small room? A. Yes.

Q. And Mr. Wolf told you to sit there, did he? A. Yes.

Q. Did you go any further? A. No, sir.

Q. Did you stay there? A. No, sir; I sat right there in that chair by the door.

Q. How long did you sit there? A. Oh, about an hour.

Q. About an hour? A. It might have been a little longer.

Q. During that time could you hear what was going on in the dining room? A. Well, after Mr. Wolf told me to sit in

the chair by the dining-room door, and he went on through the door, it was a lady said to him that Mr. Hammersla was there to see him, and Mr. Wolf said to these fellows, he said, "You fellows sit over there," and Mr. Wolf went on out talking to Mr. Hammersla, I suppose.

Q. You sat there, you think, about an hour? A. Yes, it seemed like two hours, as long as I was sitting there.

Q. During the time did you hear these men that you speak of, these rough-looking men; could you hear them talking to each other? A. Yes, I did, but I could not understand anything they said. They were mumbling and talking very low.

Q. Talking very low to each other? A. Yes.

Q. Now, then, did you hear—you said you sat there about an hour before Mr. Wolf came back? A. Why, he didn't come back there. He came in probably eight or nine times to answer the telephone.

Q. He didn't come in the dining room to answer it? A. No, sir; he went in the library.

Q. That was beyond the dining room, nearer the front porch? A. Yes.

Q. Did he ever come back to say anything to these men? A. He did come back that night.

Q. Yes? A. Yes.

Q. Now, did you hear any talk out in the hall. Did anybody else come to see Mr. Wolf? A. Well, after Mr. Wolf, the last time he answered the phone and he went out, the next time I heard Mr. Wolf he was talking to three or four men—it sounded that way from the different voices—and they were in there, I suppose, about fifteen minutes talking about some bootlegging case or something, and I heard Mr. Wolf say he was sorry he could not do anything for them that night, but for them to come down to his office in the morning at nine o'clock and he would attend to it; he would take care of them. That is what he said.

Q. And they went away? A. Yes.

Q. After they went away did Mr. Wolf say anything to these men that were sitting there? A. Why, yes, sir; the next time I heard Mr. Wolf again he said, "Look here, you fellows come here——"

Q. Where was he, out toward the hall, that entrance? A. It seemed like to me he was in the hall, in the big hall; it sounded like it to me. So he said, "You fellows come here." Now, he said, "I want to tell you I am not going to defend a damn one of you." Excuse the expression.

Q. All right, go ahead? A. He said, "I am not going to defend a damn one of you." He said, "It is a damn outrage and it is a shame," and one of them kept on talking and saying, "Mr. Wolf, I am innocent, I am innocent." Mr. Wolf said, "Innocent or no innocent, I don't give a damn. If you are innocent go down and give yourself up. It is nothing in running away. If you are guilty go down and give yourself up. If you are not guilty go down and give yourself up, because if you run away they will get you sooner or later."

Q. Then what happened? A. Then whilst Mr. Wolf was saying that one of them kept on talking and saying "I want you to take my case, I am innocent, I am innocent, the papers—they won't give me a fair trial in Baltimore." Mr. Wolf said, "Yes, they will; they will give you as fair a trial in Baltimore as they will anywhere else." Then I heard a scurrying like they were going toward the door, and Mr. Wolf said, "I am damn sorry, but I cannot do anything for you." Whilst they were going out it seemed like to me they were going toward the big hall to go out, I heard one of them say something to Mr. Wolf, but I did not understand what it was, but I did hear Mr. Wolf say, "Well, you come down to my office at nine o'clock in the morning and I will see about it."

Q. Did they go out then? A. Yes; I never heard no more of it.

Q. You are a pretty athletic man, ain't you? A. Yes.

Q. Did you ever tell Mr. Wolf about that? A. Yes.

Q. You do not scrap now; you belong to the church, don't you? A. Yes.

Q. Sing in the choir? A. Yes.

CROSS-EXAMINATION.

Q. (By Mr. O'Connor): Is this one of the bad men you saw out there that night (indicating John Keller)? A. I do not know whether I can swear it was or not. He is cleaner looking than the fellow I saw.

Q. Was he about that size? A. I should say he was.

Q. About that size? A. Yes.

Q. A bad, desperate man, and you were a prizefighter for six years? A. Yes, it looked that way. I was a prizefighter.

(Mr. O'Connor): All right, John Keller, sit down.

Q. How long did you work for Mr. Wolf? A. Two years, two months and two days.

Q. How much of a vacation did you get during the summer? A. I had vacation from the 17th until the 23rd of August.

Q. Did you go off alone or did Florence go off with you? A. I went alone.

Q. Where did you go? A. I went different places. I didn't make a diary of every place I went.

Q. Out of the city did you go? A. One day.

Q. When was that? A. That was on Monday, the first Monday that I was off I went up the Blue Ridge Mountains and came back the same night.

Q. Only stayed the day? A. Yes.

Q. You weren't out of the city more than one day? A. That is all.

Q. Stayed in Baltimore all day? A. Yes, sir.

Q. What time did you get to Mr. Wolf's home? A. That Wednesday night.

Q. That Wednesday, the first time that Wednesday? A. Something after eight o'clock; I don't know exactly.

Q. Had you been there during that day? A. No, sir.

Q. Where had you been? A. Around in town.

Q. Where did you sleep on Tuesday night? A. Tuesday night?

Q. Just the night before? A. Well, the night before that I slept at Pimlico.

Q. At Pimlico where? A. I do not remember the number, but it was a pretty good piece from Pimlico.

Q. At whose house; tell me that, George? A. I do not remember the name of the people.

Q. Don't remember where you slept? A. No, sir.

Q. Where did you sleep on Monday night, two nights before? A. A couple of nights I stayed at Mr. Wolf's house, but I cannot recall exactly what night.

Q. Tell us where you slept on Monday night, two nights before? A. It has been some time, and it is hard for me to remember.

Q. Do you remember where you slept Sunday night? A. Several nights I stayed at this room that we had.

Q. Where was this place in Pimlico, George? A. I do not know. All I know is that it's at Pimlico, because I am not acquainted there.

Q. You don't know what street?

(The Witness): I do not know whether it is Patapsco Street—

Q. (By Mr. O'Connor): Look over here; you don't know?
A. I do not know whether it was Patapsco Street or Denmore Street, I think it is.

Q. How did you come to sleep there? Whose place was it?
A. Because Mrs. Wolf gave me a vacation and I thought it Mrs. Wolf had given me a vacation that it would not look right for me to sleep and eat there. It was a vacation and I was not to be there.

Q. What arrangement did you make about sleeping elsewhere? A. Who with?

Q. With anybody? What arrangement did you make; did you go and get another room somewhere? A. Yes.

Q. Where was that? A. In Pimlico.

Q. Who did you go to? How did you come to go to Pimlico? A. How did I come to go to Pimlico?

Q. Yes? A. Because I wanted a place to rest at night besides where I worked at.

Q. How did you come to find a place at Pimlico? A. I inquired.

Q. Who of? A. I inquired from a gentleman named—I will recall his name in a minute—it is a picture man—Crane, I think it was.

Q. Did he own a house? A. I don't know, sir.

Q. How did he direct you? What directions did he give you? A. He directed me to a lady's house—Mrs. Gross.

Q. Did you go to Mrs. Gross' house? A. Yes, sir.

Q. Where did she live? A. Up there in Pimlico.

Q. What street? A. Patapsco Street, I think.

Q. Lived there by herself? A. Well, I seen a gentleman there. I suppose that was her husband.

Q. And you rented a room there, did you? A. Yes.

Q. For how long did you rent a room? A. For a week.

Q. And you rented it when? A. I don't know exactly the date I rented it.

Q. How long after you went on a vacation on August 17th did you rent the room? A. How long afterwards?

Q. Yes? A. I did not rent that after I went on the vacation.

Q. When did you rent it? A. Before I went on the vacation.

Q. Did you occupy it right away or did you tell them you would come back later? A. When I rented the room I went there that night and stayed there that night.

Q. How many nights in all did you stay there? A. I don't know, sir; I could not tell you.

Q. You know you were there Tuesday night before this Wednesday in question? A. Yes.

Q. Positive of that? A. I am most sure.

Q. Florence was staying at Mr. Wolf's house? A. No, sir; when I stayed away she stayed away.

Q. On Tuesday night? A. I am most sure.

Q. You got out to Mr. Wolf's about eight o'clock? Something after eight.

Q. About what time was it that these two desperate men like Keller came out there? A. Shortly after I got there.

Q. You were not afraid, were you? A. No, sir, I was not afraid.

Q. Mr. Wolf told you to stand by him in case there would be any trouble? A. To sit in a chair there.

Q. Did you arm yourself? A. No, sir.

Q. Did not get any weapons in case they started to shoot up the place? A. No, sir.

Q. Did not get a thing? A. No, sir.

Q. Where were you when they were in the kitchen? A. Sitting in the chair.

Q. How far away from them? A. About four or five feet.

Q. In the same room? A. In the kitchen.

Q. How long were these men in the kitchen? A. I do not think they were in there over five or eight minutes; something like that.

Q. And then Mr. Wolf came back and told them to follow him? A. No, sir; Mr. Wolf came in and said, "Fellows, go in that way."

Q. And pointed in the direction of the dining room? A. Yes; the hall that leads into the dining room.

Q. You stayed out in the kitchen? A. I stayed out in the kitchen until Mr. Wolf came and beckoned for me to come to him.

Q. You were there to guard the door? A. Went up to Mr. Wolf.

Q. What did you do then? A. Listened to what Mr. Wolf told me. He told me those two desperate men—"you sit at the door and if you hear any disturbance or anything to come in and give him a lift."

Q. What did you have to give him a lift with? A. I had these (holding up hands).

Q. Did you have any weapons? A. No, sir.

Q. How long did you say you waited, about two hours? A. No, sir; I said about an hour.

Q. It seemed like two hours? A. Yes.

Q. And in that time Mr. Wolf was called about eight or nine times to the telephone? A. Probably more.

Q. I suppose he was very tired that night after running back and forth to the telephone? A. I did not answer the telephone—

Q. You said you are a church goer. What church do you attend? A. Mt. Zion.

Q. Up on Gilmor Street and Riggs? A. Yes.

Q. And the pastor of that church is Rev. Virgil? A. Yes.

Q. Do you remember talking to him about this case at all? A. No, sir.

Q. Don't remember talking to him about this case? A. No, sir.

Q. Did you talk to him about this case? A. No, sir.

Q. Do you remember telling him Sunday night, August 27th, you were not at Mr. Wolf's house on the night these men went out there? A. No.

Q. At the church, and told him that? A. No, sir.

Q. Did you ever tell him since this Wednesday night that you were not at Mr. Wolf's house that night but were on a vacation? A. No, sir.

Q. Did you ever tell anybody you were not at Mr. Wolf's house on this night? A. No, sir.

Q. Ever tell any members of this congregation you had been coached to come down and testify to this— A. No, sir.

Q. And Mr. Wolf promised you and your wife that he would take care of you, if you did come down? A. No, sir.

Q. And never told them you, were not at his house that night? A. No, sir.

Thereupon, FLORENCE E. TAYLOR, a witness of lawful age, produced on behalf of the defendants, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): Your name is Florence E. Taylor?
A. Yes, sir.

Q. That was your husband that was just on the stand, George?
A. Yes.

Q. Where do you work? A. Mr. Harry B. Wolf's.

Q. You are a cook there? A. Yes.

Q. How long have you been a cook there? A. Two years or a little over.

Q. Do you remember the night of Wednesday, August 23rd?
A. Yes, sir; I do.

Q. Tell his Honor in your own way, just what you recall in reference to Socolow and Keller? A. I remember very well because it was the return of my husband's vacation. It was the longest he had ever been away from me since we were married and I was very glad for his return. I remember that very well as the folks was late getting home, and we had dinner very late that afternoon owing to the fact that the folks had all been to Sandy Beach and they didn't arrive until late, and of course we served dinner very late. We served four courses. It was somewheres around 8 o'clock when we commenced to serve dinner, as near as I can remember. I didn't just look at the clock, because I was in quite a good hurry to get out, because we were late having dinner, and when they had finished dinner in the house, I had sat down at the table in the kitchen, had just

finished my own dinner, and pushed the chair back from the table, and hadn't gotten up yet, listening to my husband telling me about his trip, when I heard the door open leading to the kitchen and I looked up, and two very dirty looking men came from the hall, and Mr. and Mrs. Wolf were in the rear, and Mr. Wolf had hold of Mrs. Wolf's arm, and of course he had not been in the kitchen before that night, and Mr. Wolf always came to the kitchen with a pleasant smile and very kind words, and when I looked up the impression on his face attracted my attention. He seemed to be very nervous, his eyes were shining, and even his voice had a change of tone. He said to me like this, he says, "Florence, do you mind these fellows washing up a little over here?" I said, "No, sir." He said, "And give them a little bite to eat." I said, "All right, sir," but his countenance on his face had attracted my attention, so that I followed Mr. Wolf around as he was going towards the door, he thought I objected, and he said to me, "You don't mind it, Florence?" And I said, "Not a bit," and I had gone to the sink to wash clean plates for these fellows, and I heard him say to Mrs. Wolf, "Now, hold your nerve." And they went out, and that raised my excitement more. These two men seemed to be very nervous, and the small one went around to the sink, and he didn't wash his hands, he wet them, because the dirt was left on the towel, and by that time I had the plates on the table, and coffee poured, and the dinner of course was sitting there where I had just ate, and the small one sat at the end of the table, although I had pulled a chair back at the middle of the table for him to eat, but he moved to the end and picked up the coffee, and I guess he took two or three sups out of the cup. The other fellow seemed to be so fidgety, he moved all around. He didn't sit down at all, he moved over towards the radiator on the other side of the house and was doing something to himself up here (placing hand around the neck), and the small fellow took about three sups of coffee, and he got up from the table. Before he got up he looked over in the pantry where the chauffeur had been sitting and he made some kind of sign to the other fellow, so he got up, and just as he got up Mr. Wolf came in. I was at the sink then, and I said, "Huh, these fellows didn't eat enough to pay me for getting ready for them," so the small fellow rubbed his stomach like that (indicating), and he said, "We don't feel like eating." With that Mr. Wolf said, "Right this way, boys," and they got up and went in, and Mr. Wolf started in behind them, and just as he closed the door he came back and called

my husband to him, and George went. I didn't pay much attention to what Mr. Wolf was saying to George, but I heard him say, "Sit in here," and I was busy getting cleaned up, and I went in to the dishes, and George stayed so long, because I thought he was going to help me getting cleaned up, and he was sitting down by the door. I started to call him and he done like that (indicating) for me to hush, and when he came out he told me Mr. Wolf had asked him to sit there in case these fellows would attack him.

Q. Anything else you know about it, Florence? A. No, sir; that's all I know.

CROSS-EXAMINATION.

Q. (By Mr. O'Connor): Florence, how long have you lived at Mr. Wolf's house? A. Two years and some couple of months, I guess.

Q. Have you no other place you sleep, Florence? A. Only during our vacation we rent a room in Pimlico. I had my vacation first.

Q. When did you have your vacation? A. Just one week prior to my husband.

Q. And that was, I suppose, about August 11th? A. I think I went off on the 10th or 11th.

Q. Until about the 17th? A. Yes, sir.

Q. And then as soon as you came back George left; is that right? A. Yes, sir.

Q. Where did you go on your vacation? A. I rented a room in Pimlico with Mrs. Gross.

Q. And how did you come to rent a room there? A. Because I had intended to sleep very late mornings, because it had been about eight years since I had a vacation, and I wanted a rest.

Q. Did you rent the room or your husband, which of the two? A. I rented it, I spoke to the lady for the room.

Q. How did you come to pick her out? Did you see an advertisement in the paper? A. No, sir; we knew a minister down there and another man by the name of Dorsey.

Q. Who is the minister? A. He is a Baptist minister there. I can't recall his name now. Will tell you in a minute, but Arthur Dorsey is the boy's name. He isn't a boy, he is a man.

Q. Well, who is the minister? A. I will tell you in a minute when it comes to me. He is the Baptist minister in Pimlico. He had told me he would look out for a room for me, and before I saw him I saw this Dorsey. We knew him very well before he got married.

Q. Where does he live? A. In Pimlico.

Q. Where in Pimlico? A. Right beside the Baptist church.

Q. On what street? A. Either Patapsco or Elm Avenue.

Q. What does Dorsey do for a living? A. He is a cook, I think. He used to be a cook.

Q. So you got the house through Dorsey, the cook, is that right? A. He told me that perhaps I could get a room with this lady.

Q. And her house is on Patapsco Street? A. I couldn't tell you whether that's Patapsco Street that goes right up from the track or up this way (indicating). Just one short block.

Q. But you lived there? A. Yes, sir; that week I did.

Q. And did you live there the whole week? A. Oh, no; I just slept there at nights. I went down to my sister's through the day to sew.

Q. And would George come and stay there? A. Yes, sir.

Q. And when George went on his vacation he went down there? A. Yes, sir; and I came down nights.

Q. Now, he then came back to Mr. Wolf's house for the first time, did he, on this Wednesday night in question? A. Oh, no. At night, yes, sir. The first time he had been back at night.

Q. Had he been there during the day of Wednesday? A. No, sir.

Q. Had he been there at all on Tuesday or Monday preceding this Wednesday? A. I don't think so. I don't remember.

Q. Now, when was the last time you had seen him before this Wednesday night when he came out there? A. I saw him on Tuesday night.

Q. What was it, then, that caused you to remember that night so well; because he had just come back? A. I always liked to sleep in my own bed, and we were going to stay home that night.

Q. You were going to stay at Mr. Wolf's? A. Yes, sir.

Q. What time was it that these two dangerous looking men came out there? A. Somewhere between 8.35 or 8.40 when they came out in the kitchen.

Q. Of course you weren't very afraid, were you, Florence, you weren't excited? A. The thing that excited me was Mr. and Mrs. Wolf, because I had often fed dirty looking men around the kitchen door asking for something to eat.

Q. So you weren't afraid or excited? A. Mr. Wolf made me afraid and excited.

Q. Yes; but were you afraid and excited? A. Was I afraid and excited?

Q. Yes? A. Yes; I wanted to know what had happened, because I thought something had happened or was going to happen, and I was anxious to see what it was.

Q. And did your husband go in by the door? A. He went in and sat down by the door.

Q. When these two dangerous men came in the dining room, where did he go? A. By the dining room door.

Q. Did he have anything in his hands, any weapons? A. No, sir; they didn't have any weapons.

Q. Did you also go to the Mt. Zion Church? A. Yes.

Q. You sang in the choir, didn't you? A. Yes.

Q. Do you remember talking to the Rev. Virgil about the case? A. I do not.

Q. Did you talk with him? Think a minute and say whether or not you have ever talked to the Rev. Virgil about the case? A. No, sir; I don't remember ever telling him anything about the case. They were all talking there one night and they said to me when I went in, "They are trying to mess your boss up, aren't they?" And I said, "Yes, that is newspaper talk, there is not a thing in it."

Q. Don't you remember telling him that you were out there on this night but that you were not a bit afraid, that you did not know a thing about it? A. No, sir; nobody ever said anything to me about being there; I had no reason to tell them I was not afraid.

Q. That there was nothing to attract your attention or be excited about, that you did not know who the men were until you read it in the newspapers? A. No, sir; I did not know who it was until I read it in the newspaper.

Q. Were you ever present when your husband was talking to the Rev. Virgil? A. No, sir.

Q. Was he there at that time? A. My husband talks to very few people except in the choir.

Q. On this night when all the people were talking about musing up your boss, was your husband there then? A. No, sir; he was sitting up on the choir.

Q. And you never told the Rev. Virgil anything at all, is that what I understand you to say? A. I never told him anything concerning this case.

Thereupon, MARTHA BECKER, a witness of lawful age, produced on behalf of the defendants, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): You are Miss Martha Becker, are you not? A. Yes.

Q. Were you at Mr. Harry B. Wolf's house on the night of August 23rd, Wednesday night? A. Yes.

Q. And you have been employed there for how long? A. Ten years last May.

Q. You look after the children, you are governess for the children? A. Yes.

Q. Do you know whether or not George returned from his vacation and was around there that night? A. He did, he returned that night.

Q. I mean George Taylor, the butler? A. Yes.

Q. What do you know about the visit of Socolow and Keller to Mr. Wolf's house that night? A. The first I saw of the men was when they came in the kitchen followed by Mr. and Mrs. Wolf, and Mr. Wolf asked Florence to give them a bite to eat and let them wash up. That was the first I saw of them.

Q. Did you help about that table that night? A. Yes; serving dinner that night.

Q. Why did you do it, that is not your usual work, is it? A. Because the butler was away.

Q. What time did you finish dinner that night, do you recall? A. Between half-past eight and nine o'clock.

Q. Do you recall what time these boys got something to eat or went back to the kitchen to get something to eat? A. Around 8.30.

Q. When they went back to get something to eat, was George Taylor, the butler, in or about there, or not? A. He was in the kitchen.

CROSS-EXAMINATION.

Q. (By Mr. Poe): Do you remember the first time he saw George that evening? A. Yes.

Q. When was it? A. He came in the kitchen just as we were finishing dinner.

Q. How long afterwards was it before the boys came in with Mr. Wolf to get something to eat? A. About five minutes.

Q. Do you think you finished dinner at what time? A. Between 8.30 and 9.

Q. Did the boys come in before you finished dinner? A. No, after we finished dinner.

Thereupon, DANIEL MEYLER, a witness of lawful age, produced on behalf of the accused, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): What is your name? A. Daniel Meyler.

Q. How old are you? A. 23.

Q. You are employed by Mr. Harry B. Wolf, are you not? A. Yes.

Q. For how many years have you worked for Mr. Wolf? A. Ten years.

Q. Your duties are of a clerical nature down there, are they not? A. Yes.

Q. Do you recall the morning of August 24th, Thursday morning, August 24th, last? A. Yes.

Q. Won't you in your own way tell us just what you know about it in connection with the visit of Capt. Leverton and in connection with the visit of Keller; tell us all you know? A. I came in that morning, it was five or ten minutes after nine, and there was a telephone call to call Mr. Wolf at the Southern Police Station. I called Mr. Wolf and he asked me if there was any one in the office waiting for him and I said yes, that there were about five or six people among whom was Capt. Leverton and he told me then, he said tell him I will be down pretty soon, and about half past nine he came in and as usual

he said, "Good morning, everybody," and looking over toward his left he said, "I see you are here," and as he does Keller walks over toward him to the telephone box.

Q. In what room was that? A. Mr. Wolf's waiting room.

Q. That is a large room with divans and seats around it? A. Yes.

Q. And the telephone desk at one side? A. The telephone desk is just right to your right as you go in.

Q. Mr. Wolf said, "Good morning, everybody" and "I see you are here?" A. Yes.

Q. Was Captain Leverton there then? A. No, Capt. Leverton had been there, he was there early in the morning but had gone out front.

Q. He was not in that room at that time? A. No, sir.

Q. Now, go ahead? A. And as the boy came over, Mr. Wolf said to him, "Look here, is this automobile story of yours on the level?" And he said, "Yes, I am charged with stealing an automobile," and Mr. Wolf said, "What do you know about this Norris affair?" And he said, "I know where the license tag and money box is, I helped to throw them away." He said, "What do you want to do about it?" And he said, "I want to get it off of my mind." Mr. Wolf said, "Are you willing to tell it to the police?" And he said he was, and then Mr. Wolf told me to get Capt. Leverton who was standing outside of the place.

Q. Who else was present besides you and Mr. Wolf when this conversation took place? A. Mr. Stevenson was standing there at Padgett's office door and several other people in the far corner of the office sitting around there.

Q. When Capt. Leverton came in what was said? A. When Capt. Leverton came in Mr. Wolf said, "Captain, this boy is charged with stealing an automobile and he claims he knows where the license tags and money box are in the Norris case. If he is telling the truth I want you to help him."

Q. What happened after that? A. Well, after that Captain Leverton sat over on the left-hand side, about three or four

chairs from the door, with this here young boy Keller, and was talking to him, and Mr. Wolf went in his office.

Q. Mr. Wolf went in his private office? A. He went in his private office, and about, I judge, ten or fifteen minutes later Mr. Wolf came out of his private office and Captain Leverton said, "Mr. Wolf, this is way down in East Baltimore." And Mr. Wolf said to him, "Haven't you got a machine?" He said, "No; I dismissed my machine," and as he did Mr. Wolf came over towards the office, and Freedman is standing in Mr. Padgett's office, and Mr. Wolf said, "Al, have you got your machine?" He said, "Yes."

Q. By Al you mean Mr. Freedman? A. Yes. Then Mr. Wolf said, "Do you mind taking the Captain on an errand?" He said, "No." And as he did Captain Leverton, Keller and Freedman went out of the office.

Q. Do you recall, Mr. Meyler, any later visits that Keller made to the office during the day? A. I remember Keller coming back the next time. The next time he came back he sat over near Mr. Padgett's office. There is three chairs there together, and he sat in the first chair from Mr. Padgett's office on the right.

Q. Still in the waiting room? A. Yes.

Q. In the big waiting room? A. Yes.

Q. Did Mr. Wolf at any time see Keller— A. At no time except in the big waiting room.

Q. At no time except in the big waiting room? A. At no time.

Q. Go right ahead and tell us anything you know about it and everything you know about it? A. Well, I remember Keller coming back again the latter part of the afternoon and Mr. Wolf giving him some money. Mr. Wolf dug down in his pocket right alongside of me and gave him some money to go to get lunch, but I don't know how much he gave him, and the boy came back—I guess he was gone for an hour or so. He came back and took his usual seat, the same seat he was sitting in before alongside of Mr. Padgett's office, and he was sitting

there, I guess, for quite a little time, and Mr. Wolf came in later on, and I guess the boy was sitting there for possibly a half hour talking to Mr. Sherwood and the other gentleman.

Q. Mr. Tompkins? A. Mr. Tompkins; and Mr. Leverton stuck his head in the door and said, "Come here, boy," and as he did the boy went out with him, and that is the last I seen of the boy.

Q. Did Mr. Wolf have any talk with this Keller with Captain Leverton? A. No time.

Q. Then the Keller boy testified that immediately before going out with Captain Leverton that Mr. Wolf asked him if he, Keller, was going to frame Allers, and some other conversation? A. Mr. Wolf was not even near the boy when he went out. The boy was still in his same seat over here to the right of the office. Mr. Wolf's private office is at the far end and Mr. Wolf was at his private office when the boy went out.

Q. Had the two newspaper reporters, Tompkins and Sherwood, been with the boy before Mr. Wolf came in? A. I do not remember how long they were there, but I seen them there with him. I do not know how long they were there. I was busy answering the phone. The boy who answers the phone was on his vacation and I was answering the phone, and I do not know how long they sat there with him.

Q. Do you know where Mr. Wolf had been that day—on what business he had been engaged? A. I know he went to the United States Court that morning. I know he had some men to arrange for bail before Judge Supplee in the morning at ten o'clock. Right after Captain Leverton left Mr. Wolf did.

Q. How long was he out, do you know? A. I judge it was around eleven-thirty or twelve o'clock when he came back.

Q. In the afternoon was he in his office most of the time or out? A. Yes.

Q. Yes what? A. He was in the office until about three o'clock.

Q. Then where did he go? A. He left around three o'clock to go to some station house; I do not know which one.

Q. How long was he gone then? A. I think until about 4.30.

Q. When he came back that time that is the occasion when Keller was sitting there with Tompkins and Sherwood, and Captain Leverton came in and took him away? A. That is the time Keller had come back from his lunch and was sitting there.

CROSS-EXAMINATION.

Q. (By Mr. Leach): Dan, how long have you worked for Mr. Wolf? A. Ten years.

Q. You do general clerical work for him—run errands and watch the dockets and that sort of thing? A. No, sir; I have been doing mostly stenographic work for the last three or four years.

Q. But you go around the courts to see the assignments? A. No, sir, I don't do that. Mr. Shuster attends to that.

Q. At any rate, on this particular date, as I understand it, in addition to the ordinary work you do you were looking after the telephone; is that right? A. Yes.

Q. Who attends to the telephone ordinarily? A. Ed Shumanek.

Q. He was off on his vacation? A. Yes.

Q. On this Thursday you say Mr. Wolf was at the Southern Police Station early in the morning. Did he go to the office first or to the Southern Police Station first? A. I do not know. I came in about five or ten minutes after nine—I was late that morning—and there was a call there for me to call him at the Southern.

Q. When you got there at five minutes after nine did you see this little boy, John Keller? A. Yes; I think he was sitting there.

Q. Had you seen Captain Leverton up to that time? A. He had been in and gone out?

Q. Had you seen him? A. I had seen him, sure.

Q. All right. So by five minutes after nine you had seen both John Keller and Captain Leverton? A. Yes.

Q. What did Captain Leverton say to you? A. All the Captain was doing was sitting there when I spoke to him. I said, "Good morning, Captain."

Q. Did he inquire from you where Mr. Wolf was? A. Not from me. Somebody must have told him that Mr. Wolf had gone out.

Q. A good many people come in and go out of that office from the time it opens until it closes? A. Yes; they start to go in about 20 minutes after nine or nine-thirty, and there is a good crowd there at ten o'clock. At ten o'clock we have a good crowd to go to court.

Q. They start to come in at nine o'clock, don't they? A. Very few at nine.

Q. Don't you have a good many there before 9.30? A. It is usually that the crowd gets there to go to Court that the cases are in, and they are usually there at or about ten o'clock.

Q. Mr. Leverton was in citizen's clothes, wasn't he? A. Yes.

Q. Before Mr. Wolf came to the office that morning, and after you saw Leverton the first time, did Leverton go out and come back again? Do you understand me? A. No; Leverton went out; I think he went out and stood in the hall, but he never left the building, and then he came in and went out again.

Q. Where did he go to that time—out in the street? A. When I went out for him—the telephone building is right next to us—he was standing right at the telephone building.

Q. When you went out to call for him he was alongside of the telephone building? A. Alongside of the Maryland Telephone Building. He told me he had been walking up and down there.

Q. Finally, when you went out to tell him that, that was after you had communicated with Mr. Wolf at the Southern Police Station? A. No, sir; that was after Mr. Wolf had come back to the office that I went out for Captain Leverton.

Q. You wish to be understood as saying after Mr. Wolf finally arrived at the office you had to go out in the street to hunt Leverton up to get him in the office? A. I sure did.

Q. He did not follow Mr. Wolf right straight in? A. No, sir, he did not; but Mr. Wolf had not been there very long before I went out after him. Just as Mr. Wolf came in and asked this boy these questions I went out for Captain Leverton.

Q. Before you went out did Mr. Wolf ask the boy the questions or not, or was it after? A. After Mr. Wolf talked to him I went out to get Captain Leverton.

Q. You had already told Mr. Wolf in your conversation with him at the Southern Police Station that Leverton was there and wanted him? A. No, sir, he asked me who was waiting in his office.

Q. And you told him Captain Leverton? A. I told him four or five or six people, among whom was Captain Leverton, and he told me to tell them to wait; he would be right up.

Q. So that four or five or six people were there in all besides Captain Leverton and the boy; is that right? A. Yes.

Q. At five or ten minutes past nine? A. Well, I guess it was about that time.

Q. All right. Now, then, Mr. Wolf finally comes, and, as I understand you, the boy John, then sitting near Mr. Padgett's door— A. No, sir; he is sitting over on the left-hand side, three chairs from the door, on the opposite side.

Q. You mean the door where you come in from the hallway? A. You come in the way I am here (indicating), and here is

the left and here is the right (indicating). The boy is sitting over here about three chairs from the door.

Q. In other words, when you come in from the street into the hallway and enter Mr. Wolf's waiting room this boy was three seats away from the door in which you enter? A. On this side; yes.

Q. It doesn't make any difference which side you put him on. You heard what happened, didn't you? A. Yes.

Q. What happened? A. When Mr. Wolf came in he said, "Good morning, everybody," as usual.

Q. Where were you when all this happened? A. I was standing alongside of the telephone booth.

Q. How far was the boy away? A. I judge about fifteen feet, and as Mr. Wolf turned to him he said, "I see you are here," and the boy walked toward him.

Q. How far was Mr. Wolf away from his general waiting room when this happened—how far in was he? A. It was just as he came in the door.

Q. How many feet did he get inside the door before he said that? A. I would say three or four feet.

Q. When he got in three or four feet he said, "Good morning, everybody," and turned to this boy, John Keller, and said, "I see you are here?" A. Yes.

Q. And he proceeded, in the presence of everybody, five or six people, including you, to discuss the Norris case with Keller? A. No, sir; the boy walked over toward the telephone booth where I was standing.

Q. Who were over there, Mr. Wolf or the boy? A. Both of them were over there where I was.

Q. And did they come up and whisper that to you? A. No, sir. He said it loud enough for everybody in the office to hear it, if any one was there.

Q. Why did he come toward you? A. I don't know why he came.

Q. He said it loud enough for everybody in the office to hear it? A. Yes.

Q. Mr. Wolf said to this boy, after saying, "I see you are here," in substance, "Look, is that automobile story on the level?" A. Yes.

Q. And the boy said, "Yes, sir?" A. The boy said, "Yes; I am charged with stealing an automobile."

Q. And then did Mr. Wolf ask him where the charge was laid? A. No, sir.

Q. Or whether he had ever been indicted? A. No, sir.

Q. Don't look over there? A. I am not looking at Mr. Wolf.

Q. Did he say whose automobile it was? A. No, sir.

Q. Did he tell when the thing had happened? A. No, sir.

Q. He said nothing but just that? A. Yes, sir.

Q. And then immediately Mr. Wolf said, "What do you know about the Norris case?" Is that right? A. Yes.

Q. And that is all that happened right there? A. In my presence.

Q. Then that was within three or four feet of the door where you enter the waiting room— A. Right near the telephone booth.

Q. And how far was the telephone booth from the door—and it was loud enough for everybody to hear it? A. Yes, loud enough for everybody to hear it that was in the office.

Q. Then you went out to find Leverton? A. Yes.

(The Witness): The telephone booth is about six feet from the door. It is a box that sits on top of the desk, that sits on

the right-hand side as you go in, right between Mr. Padgett's office and Mr. Jackson's office.

Q. Did Mr. Wolf ask the boy what his name was? A. No, sir.

Q. Ask him where he lived? A. No, sir.

Q. Ask him what sort of automobile it was he was charged with having stolen? A. No, sir.

Q. Did he ask whether it was in Baltimore County or Baltimore City or Anne Arundel County or Washington? A. No, sir.

Q. Merely inquired, is this automobile statement or story on the level? And the boy said yes. And then he immediately right there in front of everybody, within four or five feet of the main entrance, said, "What do you know about the Norris case?" A. What do you know about this Norris affair.

Q. And then the boy— A. Said he knew where the license tags and money box were; that he helped to throw them away.

Q. Did Mr. Wolf say what license tags? A. No, sir.

Q. What sort of box? A. No, sir.

Q. Did he say how long have you known it? A. No, sir.

Q. Did he make any inquiry? A. No, sir; here is what Mr. Wolf did say to him—after he told me that he said, "What do you want to do about it," and the boy said, He wants to get it off his mind—

Q. He was getting it off his mind in that office full of people—at least five or six people, including you? A. Yes.

Q. And the boy still stood there? A. Yes; and it was only a fraction of a minute to go out and get Leverton; he was in the hall.

Q. What happened? A. Leverton came in.

Q. Right there in front of you— A. Yes; never went in the private office at all.

Q. Right there by the door? A. He said, Captain, this boy tells me he is charged with stealing an automobile, and he knows where the license tags and money box are; that he helped to throw them away, and Mr. Wolf said, "Captain, if he is telling the truth I want you to help him; bring him back to me, and I will take him over to Mr. Leach and see if he won't help him."

Q. Mr. Wolf told Leverton that after he, Leverton, had gone with the boy and gotten all the boy had to show him, that he not only wanted Leverton to help him, but that he wanted the boy brought back to him and he wanted to bring him over to me, the State's Attorney? A. Yes.

Q. What happened then? A. Leverton took the boy and went over on the side and sat down with him, and Mr. Wolf went in his private office, and about 15 minutes later he came back.

Q. Did Mr. Leverton go into the private office that morning? A. No, sir.

Q. Did the boy go in? A. No, sir.

Q. So far as your information goes, that is for the benefit of the Court, the story of what happened there that morning, except that Leverton later went in Freedman's automobile down to the place—is that right? A. Yes.

Q. You were attending to the telephone booth that day? A. Yes.

Q. You remember Mr. Wolf in all probability while he was in his office arranged to have the newspaper man know about this; called for Mr. Harry Sherwood to come up quick; important? A. I call up so many people for Mr. Wolf—

Q. Some things are more important than others; don't you remember this? A. It was not any more important to me than anything else.

Q. Isn't it a fact that you called the office of the Evening Sun, the newspaper Evening Sun, and asked for Mr. Harry Sherwood and connected him so that Mr. Wolf could talk to him? A. I don't remember, but I may. I call up, I guess, forty or fifty people a day for Mr. Wolf. I do not remember any specified people I called.

Q. Your recollection is a little dim on that? A. If I recalled it I would surely tell you.

Q. At any rate, Mr. Sherwood came in that morning? A. I don't remember him coming in that morning. I remember seeing him there that afternoon.

Q. You know him? A. Yes.

Q. Don't remember him coming in in the morning? A. No, sir.

Q. All right; Leverton goes away and up to the time of his departure for the first trip neither the boy nor Mr. Leverton got inside of Mr. Wolf's private office; that is right? A. Yes.

Q. And all that was said was outside near the open door? A. Yes. They went off and come back.

Q. Were you there when they came back? A. I remember seeing the boy there.

Q. He was there all day long, wasn't he? A. I think he was in and out—once, twice or three times.

Q. Made one trip and came back, and the boy stayed there awhile, and Leverton did one thing and another, and finally took the boy again and made him take a trip? A. Yes.

Q. And came back in the neighborhood of two or three o'clock, and the boy stayed there a couple of hours, didn't he? A. He went out.

Q. Oh, yes, he went out, of course he did, he says so and everybody says so, but he came back too? A. He was gone for an hour or two that time. He was not gone very long before Mr. Wolf came back.

Q. When that boy got back Leverton was not there, was he? A. In the late afternoon Leverton was not there.

Q. The boy was sitting down near Padgett's door, is that right? A. Yes.

Q. Leverton is not in the office at all? A. No, sir.

Q. But you are right? A. Yes.

Q. In comes Tompkins and Sherwood, the two newspaper men? A. I don't know whether Mr. Tompkins and Mr. Sherwood came in there at that time or they may have been sitting in there.

Q. At any rate, at or about this time the boy, John Keller, was sitting over near Padgett's door? A. Yes.

Q. Where he usually sat? A. Yes.

Q. Tompkins of the morning Sun and Sherwood of the Evening Sun were sitting alongside of him? A. Yes.

Q. Leverton isn't there? A. No, sir.

Q. Neither is Mr. Wolf at that moment? A. Mr. Wolf came in I guess about 4.30 or somewhere around that time.

Q. How long had those two gentlemen been there before Mr. Wolf came in? A. I don't remember those two gentlemen coming in, but I remember seeing them in there.

Q. But they didn't come in through the roof, did they? A. They might have come in when I was in one of the other offices and I might not have seen them when they came in.

Q. How long was it before Mr. Wolf came in? A. I guess about five or ten minutes.

Q. Leverton was not there yet, was he? A. No, sir.

Q. Shortly thereafter, to wit, shortly after Mr. Wolf came in—referring to the occasion when you saw Mr. Sherwood and Mr. Tompkins sitting alongside of our boy, John Keller—you

have told the Court that Leverton took the boy away? A. That is correct.

Q. I understand you to say that Leverton came to the door, when you say that you refer to that same door, the general entrance? A. Yes.

Q. The entrance into the hallway from the main office? A. Yes.

Q. And said, "Come on, boy"? A. Leverton put his head in and said, "Come on here," and as Leverton did that the boy went out with him and that is the last I seen of the boy.

Q. That is the last time you saw Leverton back there on this occasion? A. Yes.

Q. And the last time you saw the boy? A. The last time I seen either one of them.

Q. At any rate that day? A. Yes.

Q. Leverton just came to the main entrance and put his head in the door and said come on? A. Yes.

Q. He didn't come inside at all? A. No, sir.

Q. Now, Daniel, think a little; as a matter of fact was not Capt. Leverton closeted with Mr. Wolf in his private office and didn't he come from Mr. Wolf's private office with Mr. Wolf? A. Capt. Leverton was never in Mr. Wolf's private office that day.

Q. Everything was done outside? A. Yes, Leverton nor the boy either one were never in Mr. Wolf's private office.

Thereupon, RICHARD H. STEVENSON, a witness of lawful age, produced on behalf of the accused, having been first duly sworn according to law, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): What is your name? A. Richard H. Stevenson.

Q. You are a member of the bar? A. Yes.

Q. How old are you? A. 34.

Q. How long have you been a member of the bar? A. 11 years.

Q. You are associated with Mr. Wolf in the practice of law? A. Yes.

Q. How long have you been so associated? A. With Mr. Wolf since 1913.

Q. You served in the army I believe? A. Yes.

Q. What was your rank? A. Captain of Infantry.

Q. Do you recall the day of Thursday, August 24th, of this year? A. Very well.

Q. I want you to begin at the beginning and tell us in your own way everything you saw, everything you heard in connection with this case against Mr. Wolf, because it might be of interest in this case? A. As I arrived at the office that morning about nine o'clock, Mr. Wolf did not get there until some time later, I should say around nine-thirty or perhaps nine-forty, I heard Mr. Wolf come through the entrance way into the main waiting room and say, "Good morning, everybody," as is his invariable custom. I stepped to the outer door to see him and he stopped at the switchboard, the telephone switchboard where Dan was

sitting, Ed was on his vacation. About that time this lad Keller was coming across the floor and he said, "Hello, I see you are here." And the boy made some reply. He said, "Look here, Keller, is it really so that you are charged with stealing an automobile?" The boy sort of hung his head like he did on the stand and he said, "Yes." He said, "Do you know anything about this Norris case?" And Keller said, "I know where the money box is and the tags." And Mr. Wolf said, "Well, what do you want to do about it?" He said, "I want to get it off my mind." He said, "Are you willing to tell the police?" And the boy said yes.

(Mr. Leach): Wanted to get what off his mind, the automobile case?

(The Witness): I don't know, Mr. Leach, I am giving you my story, my testimony. He said at that time, "Dan, where is Capt. Leverton?" And Dan said, "I think he is out on the sidewalk," and Mr. Wolf said go and get him, and within a very short space of time, not more than 15 or 20 seconds, Dan was back with Mr. Leverton and Mr. Wolf said, "This boy says he is charged with stealing an automobile and he says he knows where the tags and the money box in the Norris case are. If he tells you the truth I will expect you to help him." And with that Mr. Wolf and I turned and went into his office.

Q. Did Capt. Leverton say anything? A. He may have made some reply, something that made no impression on me. They walked over in the direction of the chairs in the main entrance into the outside room, and I think they sat down there. I walked into Mr. Wolf's office with him; he had not gone over his mail, and I had some conversation with him about one or two cases that we had before the United States Commissioner that morning. I stood there possibly five minutes in his office and I stepped from his office into the room that used to be a library before the larger library was built in the rear of Mr. Wolf's office, in the room where Mr. Schuster has a desk and Mr. McKindless has a desk. I remained in there for a short space of time and doing something else, making my daily duties, and shortly Mr. Wolf stepped into the outer office again and Capt. Leverton said to him—the door was open and I walked out, too, and Capt. Leverton said that he had no automobile, and Mr. Wolf then requested Mr. Friedman to take them down. They left ahead of us. When we left to go over to the United States Court they had gone. That is the last I saw of them that day.

Q. Let us get back to this: When you entered Mr. Wolf's suite of offices you entered a very large reception room, didn't you? A. Yes.

Q. With seats and divans and benches around? A. Assuming this is the doorway, Mr. Dennis, there is a large divan which sits in the center of the floor, circular divan, with Mr. Jackson's office immediately to the right as you enter.

Q. Just a moment. To the south side of this room you have a partition running parallel to Lexington Street and that partition divides off a lot of offices? A. Three offices.

Q. What I will call stall offices? A. All right, sir.

Q. And you are in one of those little offices when— A. Mr. Padgett is in one and Mr. Jackson is in one.

Q. On the morning that Mr. Wolf came in and said good morning, everybody, you were sitting in one of those small offices? A. I was sitting in one of those small offices, in my office, I think I was reading the newspaper. The door was open and I heard Mr. Wolf come in and I went out to meet him as I always do when I get there ahead of him.

Q. To the east end of this big reception room which is cut off by a partition, that is what used to be the old library that you described? A. It is.

Q. Where Mr. McKindless and Mr. Schuster are? A. Yes.

Q. And the stenographer? A. Yes. There are two big glass doors as you enter.

Q. Mr. Wolf's private office is to the extreme right of that, separated from the big reception room by a heavy wooden door? A. Yes, and also a sliding door from Mr. Wolf's office into this office where I described Mr. Schuster and Mr. McKindless as sitting.

Q. Into the workshop from the office? A. Yes.

Q. Now, then, do you recall any instance in connection with Mr. Sherwood? A. I don't remember seeing Mr. Sherwood at all that day.

Q. What happened later that day, did you see any more of Leverton? A. I did not. I think I left the office early that day, I think I left about two o'clock.

Q. That is all you know about the matter, so far as that day is concerned? A. Yes, sir.

Q. This meeting with the boy and what passed between the boy and Mr. Wolf and yourself and Dan and then Captain Leverton? A. Yes, sir; because I was waiting for Mr. Wolf. I didn't know he had this Horwitz matter, which he afterwards

told me about, but I did have two other matters with him in the United States Court, and we were going over together, and I had been on the lookout for him.

Q. Now, then, on Saturday following this day, somewhere in the afternoon, about four o'clock, it has been testified you went with Mr. Wolf to the Central Police Station? A. Yes, sir.

Q. Will you tell us just where Mr. Wolf went and just what was said and what was done? A. Yes, sir. On Friday, the day previous, Mr. Wolf was very angry. He said he couldn't believe, to use his language, "That Keller had told any such damn lie about him." And he was very much upset that day, very angry, and on the following day he said he wanted to go around to see Keller at the police station; wanted to see whether the boy had said it, and would like to have an interview and asked me if I would go with him. I said, "Yes, I would go," and in the meantime I think he called up Mr. Sayler. At any rate Mr. Sayler joined us on our way to the police station. Mr. Sayler's office is on St. Paul Street, about two doors from Saratoga, and we got to the police station, and Sergeant Stempel was behind the desk. Mr. Wolf asked Sergeant Stempel's permission to see Keller. Sergeant Stempel said he had received orders not to let any one see him. Then some telephone conversation took place. Sergeant Stempel telephoned to General Gaither and General Gaither to the State's Attorney and the reply came back that Mr. Wolf could not see Keller, and then we left. We got outside the police station, opposite the yard in the rear of the building occupied by the Commissioner of Motor Vehicles, which is separated from Saratoga Street by an iron fence, and it seemed that some one on the other side of the street attracted the attention of Mr. Sayler, and Sayler turned and he looked up at one of the windows and he said, "Harry, some one up there is signaling to you," and we all looked, and Sayler said, "Harry, you better not go in. If you do the newspapers will write you up." He said to me, "Dick, you go in" and I went in. I went in possibly eight steps and I couldn't say who he was, I couldn't say he was Keller, because he was standing in the cell. The light was bad on the inside of the window, the bars were in front of his face, and I couldn't clearly distinguish what it was, but at any rate the boy was making motions with his mouth? I could neither hear nor understand, and I cupped my ear in this fashion (placing hands toward ear), and I leaned my head forward. I couldn't discern anything he said, and after a short

time I shook my head this way (indicating), indicating that I couldn't understand, and then I repeated the process. I did that again (placing hand to his ear), and he kept moving his mouth all the time, but I couldn't understand anything he said. Presently I shook my head again and turned and retraced my steps and went out, and I don't know yet what he said, nor did I say anything to him.

CROSS-EXAMINATION.

Q. (By Mr. Leach): Sort of a deaf and dumb arrangement, pantomime proceeding? A. Whatever you choose to call it.

Q. The mouth made motions and you—— A. (Interrupting): If that pleases you that is all right.

Q. You are a witness in an important case, answer my questions? A. I realize that.

Q. You mean to tell the Court that you made that voluntary errand by motion, that you went up that back yard and went through a pantomime and didn't use your speech at all? A. Yes.

Q. What did you say to this man? A. I didn't say anything to him.

Q. You tell these five judges that you went up there voluntarily under the conditions you describe and went through a series of motions and that is all you did? A. No, I didn't say I went through a series of motions.

Q. What did you do? A. Didn't you hear my testimony?

Q. Did you talk, or did you use any words, tell us?

Q. What did you do? A. I walked into the yard——

Q. (Interrupting): Yes, we got you in the yard, and we want to know what you did after you got in there? A. I walked in the yard; I saw this man making motions and I couldn't hear what he was saying, nor could I understand, and I cupped my ear like this (indicating). He continued to talk. I couldn't hear what he was saying for the very obvious reason that you

know there was a policeman stationed on the outside of the door and the boy was evidently afraid he would be heard.

Q. Off the record. We put the policeman there afterwards?
A. Yes, I couldn't hear anything that he said and I indicated that by shaking my head in the negative.

Q. What did you say if anything? A. Mr. Leach, I have told you twice that I said nothing and I repeat that I said nothing.

Q. Very well, I am obliged to you for that? A. You are quite welcome.

Q. So the situation is this: that you as a member of this bar and an officer of this Court on the occasion that you referred to went up the back yard of the building adjoining the Central Police Station, and by a pantomime or at least by motions undertook to communicate with some person whose name you don't know and whose identity you have never learned, is that the idea? A. No, sir, that is not the idea.

Q. You say you don't know it was——

(Mr. Parke, interrupting): You are denying all access to him.

Q. Who did you think it was? A. I had no idea. I thought it might be Keller.

Q. You mean to tell the Court that you didn't say anything to Keller at all? A. Mr. Leach, I have said three times, and I am under oath, that I said nothing to Keller. I repeat, sir, to you now, that I said nothing to Keller.

Q. What was your purpose in going up that back yard? A. The man signaled us and my purpose in going up was to see if I could try to catch what he had to say. I cupped my ear like that (indicating) but couldn't hear and I indicated——

Q. (Interrupting): What did you ask him? A. (Continuing): I indicated by shaking my head.

Q. Why did you not use your power of speech; because you were afraid of the supposed copper on the other side? A. Not at all.

Q. Why didn't you ask him? A. The man wasn't anything to me. I had no reason to ask him anything.

Q. What did you go in the yard for? A. To find out what he wanted. If I had found out what he wanted I may have had some conversation with him.

Q. You thought it was Keller? A. I thought it might be Keller.

Q. And you went in there to communicate with him? A. No, sir; because the man motioned to me, and if he hadn't motioned I wouldn't have went in.

Q. And how far away would you say you were from the man or boy? A. He was up on the second floor. I took possibly six steps——

Q. (Interrupting): You were about as far away as you are from Judge Stanton? A. If you want me to answer you will have to permit me to answer. I took about six steps from the end of the yard, which would put me about 12 feet from the entrance way, and incidentally there is an iron fence along the Saratoga Street side which obstructs the vision of no one. There is a brick wall beside that yard, probably as high as this desk behind which your Honors sit. The windows of the police station were above the wall and any one sitting behind the desk in the Central Police Station could look out and see me. The windows were open, it was in the warm summer time. I made no effort to hide myself or obscure myself.

Q. Now, answer my question. How far were you from the man or boy who was at the window signaling as you have indicated to the Court? A. As the crow flies, probably 60 or 70 feet.

Q. 6 of 7? A. 60 or 70, 6-0 and 7-0.

Q. When you were in the yard, that's the time I am referring to? A. Yes; that is what I am referring to.

Q. This man was on the second floor of the Central Police Station building? A. Exactly.

Q. And you were on the ground? A. Exactly.

Q. Immediately at the wall, the lot at the Central Police Station or between the Central Police Station and the Maryland Historical Society building in the rear? A. Yes, sir.

Q. And opposite which one of the windows of the Central Police Station, fourth or fifth? A. I wasn't more than 12 feet from Saratoga Street.

Q. Opposite which window.

A. I was about 12 feet from Saratoga Street and he occupied the window which appeared to me to be almost midway of the building. That building is probably 150 feet deep.

Q. My question is opposite which window of the Central Police Station were you when you attempted to communicate with this man or boy? A. I don't think the windows begin until about 30 or 40 feet from Saratoga Street, so I couldn't be opposite any window.

Q. The yard opposite the Maryland Historical Society building into which you had ventured runs over opposite at least the third or fourth window, does it not? A. No, sir.

Q. Does not? A. No, sir; that isn't my recollection of it.

Q. Very well? A. That yard only runs to the stone steps that lead up in the rear of the building.

Q. You tell the Court, as I understand you to say, that there was a policeman over on the other side, that is to say on the other side of the Central Police Building? A. No. I understood later that there was a policeman stationed immediately outside the door where he was locked in the room at your orders; at your instance.

Q. But because you thought there was a policeman there—
A. (Interrupting): I could understand afterwards why the boy wasn't making any noise. He was moving his mouth. It did

seem peculiar to me then, but since I learned afterwards that the policeman was out there and why he didn't say anything.

Q. Do you mean to tell their Honors why it was that you didn't make some noise; that is use your power of speech and make some inquiry of the boy? A. What inquiry?

Q. Lord knows, I don't? A. I am sure I don't. There was no occasion for me to make any inquiry if your Honors please. The man was making motions with his mouth, making motions with his mouth and motioning in my direction or Mr. Wolf's or Mr. Saylor's, and as far as I know there is a pair of steps so I walked as far as I could go without going down those steps, and stood with my ear cupped in the manner I have indicated, and not being able to hear I shook my head no and then turned and walked out.

Thereupon HENRY SIEGEL, a witness of lawful age, produced as a witness in behalf of the accused, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Robinson): Where do you live? A. 214 North Washington Street.

Q. Baltimore? A. Yes, sir.

Q. Do you remember being at Mr. Wolf's residence on the 23rd of August last? A. I do.

Q. You say you live where—in Baltimore? A. Yes.

Q. You were at Mr. Wolf's house on the 23rd of August last? A. Yes.

Q. How did you go out there? A. In my machine.

Q. Did you go alone? A. No, sir; two other gentlemen.

Q. Two other gentlemen were with you. Who were they?
A. Paul Schwartz and August Reamer.

Q. What time did you get out to Mr. Wolf's house? A. I judge between half-past nine and ten.

Q. When you went there how did you go, in the house? A. When we got there we seen Mr. Wolf and a gentleman—that is—

Q. What time did you get to Mr. Wolf's house? A. Between half-past nine and ten.

Q. Did you go in the house? A. I was in the hallway—in the house.

Q. You got out of your car when you went there? A. Yes.

Q. Did you see any one there while you went out on the porch? A. I seen Mr. Wolf and another gentleman, who I later learned was Detective Hammersla.

Q. That was on which side of the house? A. The north side of the house, on the porch there.

Q. You drove under the port cohere? A. Under the porch.

Q. A gentleman was talking with Mr. Wolf which you understand was Detective Hammersla. Did he stay there a while? A. No, sir; when we got there Mr. Wolf excused himself. I heard him say, Mr. Harry, excuse me, won't you? He said it twice, and he said certainly, and he left in his Ford touring car.

Q. You three came in the hall? A. Mr. Wolf called us inside.

Q. You went there to see him on some professional business? A. Yes.

Q. How long did you stay there? A. About ten or fifteen minutes.

Q. You wanted to see him about what? A. There was a friend of mine arrested on some charge.

(The Court): You want to know how long he stayed?

(Mr. Robinson): He said ten or fifteen minutes.

(The Court): No, I do not think you need to go into the purpose of the visit.

Q. When you got through with Mr. Wolf what did you do then? A. We went out and got in the machine and drove away.

Q. You did not go in any further than the hall? A. No, sir.

Q. Did the other two gentlemen go back with you? A. Yes.

Q. Did Mr. Wolf see you off, come to the door or out on the porch? A. I think he did.

Q. Did you see a taxi out there? A. The only machine I seen was a Ford touring car.

CROSS-EXAMINATION.

Q. (By Mr. Poe): Were you under any charge? A. No, sir.

Q. Were you the one whom they took out to furnish bail? A. I went out to see about getting a friend of mine out. A friend of mine was arrested.

Q. And you went out to Mr. Wolf's to see about getting out? A. Yes.

Q. Were you the one that was to furnish the bail? A. No, sir.

Q. You took the bail along with you? A. Yes; they would not accept any property because it was a Federal charge. They wanted a thousand dollars cash and we did not have it, and we went to see Mr. Wolf about getting the boy out that night.

Q. Who was to furnish the thousand dollars? A. We did not have a thousand cash.

Q. You were out to get a thousand dollars in cash to get him out that night? A. Yes.

Q. You went out there to try to get him out that night? A. To see what Mr. Wolf could do for us.

Q. Did you tell Mr. Wolf that you had bail and that you wanted him to go in with you to arrange to get him out? A. We told Mr. Wolf we had a bondsman, but did not have a thousand dollars cash, and he wanted to give property and he would not accept it.

Q. Did you want Mr. Wolf to put up a thousand dollars? A. No; to see what he could do; see if he could get the boy out.

Q. What did Mr. Wolf say to you? A. He said he could not do anything; the only thing we could do was to come up in the morning.

Q. Didn't you ask him to go in that night? A. He could not do anything for us that night.

Q. Did you ask him to go in with you that night and see if you could get the boy out? A. I asked him and he said it was no use.

Q. And you had a bondsman with you, but you had to have a thousand dollars in cash? A. Did not have the thousand in cash.

Q. Did the case come up the next morning? A. Well, he furnished bail the next morning. Well, he took the property the next morning as a bond.

Q. He would not have taken it the night before? A. No, sir, because they wanted cash.

Thereupon PAUL SCHWARTZ, a witness of lawful age, produced by and on behalf of the accused, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): Where do you live? A. 228 West Mulberry.

Q. Were you at Mr. Harry B. Wolf's house on the night of August 23rd, Wednesday night? A. Yes.

Q. What was your purpose in going out there? A. A friend of mine called me up and told me he was arrested and asked me to try to get him out on bail, and I went down to the Central Police Station and they would not accept no cash—no property. They wanted cash. I thought I would go to see Mr. Wolf and maybe he could do something for me tonight, if not tomorrow morning, and I got to Mr. Wolf's house between 9.30 and 10 o'clock, I think, and when I got there we drove inside the lane and I seen Mr. Wolf on the front porch in a swing, talking to some gentleman, which I later learned was Detective Hammersla. I asked Mr. Wolf if I could see him for a few minutes, and he asked Mr. Harry to excuse him; I think he asked him twice, and Mr. Harry said, "Yes, sir, Mr. Wolf," and he left. Mr. Wolf asked me to come in, and we walked through a narrow hallway into the main hallway, and Mr. Wolf—I explained the case to him, and the fellows was with me, they spoke, and I told Mr. Wolf we tried to get the boy out, but they would not accept no property; they only wanted cash. Mr. Wolf says, "Well, it is a Federal case, and I cannot do anything, and told us tomorrow he will try to be over, and if we had a bondsman he would see what he can do for us, and we conversed—I spoke and Mr. Siegel and Mr. Reamer, and it took about fifteen minntes, I think, and Mr. Wolf promised tomorrow he will try to get him out for us if we had a bondsman; then we went out and left.

Now, then, the next morning did you go before United States Commissioner Supplee? A. I did not have to go.

Q. Were you over there? A. I was in the Court House.

Q. Do you know what happened? Were you able to get the United States Commissioner to accept property bail? A. Well, the bondsman was there and the Commissioner accepted bail—property bail, because he himself was not there, and at the Central they only had the desk sergeant.

Q. At the Central Station or court they only wanted cash bail? A. Yes, because it was a Federal case and they would not take it.

Q. Now, then, you went out to see Mr. Wolf in order to get him to get the magistrate to accept property bail? A. Of property for bail.

Q. And Mr. Wolf told you he could not do anything for you that night and he would take it up the next morning before the magistrate? A. Yes.

A. Yes, sir.

Q. And that was done? A. Yes.

Q. Do you know what time you left there that night? A. Well, we left there about ten o'clock, I think. I am not positive.

(No cross-examination.)

(Examination of witness concluded.)

Thereupon GUS REAMER, a witness of lawful age, produced on behalf of the accused, having been duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Dennis): Were you at Mr. Wolf's house Wednesday night, August 23rd? A. I was.

Q. You went with the other two gentlemen who have been on the stand? A. Yes; I went with Mr. Siegel and Mr. Schwartz?

Q. Do you know what time you got there, about? A. Well, it was between 9 and 10 o'clock, between 9.30 and 10, I would say.

Q. How long did you stay there? A. I suppose between 15 and 20 minutes.

(Mr. Dennis): We have sent up to the Central Police Station to get the blotter. They tell us it is in use and they will be down with it presently. We want to get some information for the benefit of the Court from that. We want to show from the blotter that the man Horwitz, in whose behalf these three young gentlemen went to Mr. Wolf's house, was, as a matter of fact, held at the Central Police Station on the night of the 23rd of August on the charge of violating the Volstead Act?

(Mr. Leach): Then it is admitted that a man named Horwitz was held at the Central Police Station on that night in the sum of \$1,000 bail for the Federal authorities?

(Mr. Robinson): And he was the man that these three men went to consult Mr. Wolf about?

(Mr. Leach): We will admit that.

Thereupon, MARION McKEE, a witness of lawful age, produced as a witness on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. Webster Smith): What is your name? A. Marion McKee.

Q. Where do you live? A. 2025 East Monument.

Q. Did you have any telephone conversation with Mr. Wolf on Monday, August 21? A. If that is the Monday after the murder, I did.

Q. Tell his Honor what that conversation was about?

A. About a quarter of five I telephoned to Mr. Wolf, between half past four and quarter to five, that I thought I had the man whose machine had been used. I asked him what he would do if he was me. He said he would turn him over to the Police Department, that that was the best thing to do. That is what I did.

Q. Did you tell Mr. Heard to surrender himself to the police pursuant to that conversation? A. I told him the best thing to do was to go to the police department and tell them that his machine was gone, that is what I told him.

Q. Did you tell him that that was Mr. Wolf's advice? A. No, sir.

CROSS-EXAMINATION.

Q. (By Mr. Leach): As a matter of fact, you took this same George Heard over to this same Captain Leverton, didn't you? A. I took him to his home; it is right around the corner.

Q. Heard's home or Captain Leverton's home? A. That is who we are talking about.

Q. Who are you talking about?

(The Witness): I said I took him to Captain Leverton's home, which was right around the corner.

Q. You knew that Captain Leverton was captain of the Southern Police District, didn't you? A. I surely did; he is my neighbor, I ought to know it.

Q. Why didn't you take him to the Northeastern District? A. What was the difference? He was a member of the Police Department, wasn't he?

Q. That is the point of my inquiry? A. And that is my answer to it.

RE-DIRECT EXAMINATION.

Q. (By Mr. Smith): Captain Leverton is a neighbor of yours, isn't he? A. Yes.

Q. How far does he live from your home? A. A few blocks.

Q. And Mr. Heard was at your home at that time? A. Yes.

(Judge Duffy): Why did you call up Mr. Wolf's office and ask him for advice in this matter?

(The Witness): Lawyers are a necessary evil at some times, sir, and I just wanted to know what to do with him.

(Judge Duffy): This man Heard was in communication with you, wasn't he?

(The Witness): Yes.

(Judge Duffy): And what communication did Heard make to you?

(The Witness): He told me that he thought that might be his machine.

(Judge Duffy): Having gotten that information, why was it that you called up Mr. Wolf?

(The Witness): I just asked his opinion and advice on what to do with it.

(Judge Duffy): Why didn't you call up the Police Department?

(The Witness): I never thought to call the Police Department until I knew what to do with him; I did not know what to do with him or how to advise him.

(The Court): And then you actually took him to Captain Leverton's home?

(The Witness): Yes; I took him there in an automobile to his home.

(The Court): And then he talked to Captain Leverton?

(The Witness): Yes.

(Judge Duffy): Did Mr. Wolf tell you to take him to Captain Leverton's?

(The Witness): No, sir, he did not.

(The Court): He just said give him to the police?

(The Witness): Yes; turn him over to the police department, those are his exact words.

(The Court): Where do you live?

(The Witness): 2025 East Monument.

(The Court): Where does Captain Leverton live?

(The Witness): Right around the corner on Patterson Park Avenue.

Q. (By Mr. Smith): Did Mr. Wolf also tell you in that telephone conversation to tell Mr. Heard to tell the police whatever he knew? A. I do not recall that, sir.

RE-CROSS EXAMINATION.

Q. (By Mr. Leach): Captain Leverton had, prior to his appointment to the captainancy of the Southern District, served in what district, if you know? A. Northeastern.

Q. He served there for some considerable time, did he not? A. Yes.

Whereupon the defense rested, and the State to maintain the issues joined on its behalf offered the following:

TESTIMONY ON BEHALF OF THE STATE IN REBUTTAL.

Thereupon, REVEREND SAMUEL A. VIRGIL, a witness of lawful age, produced as a witness in behalf of the State in rebuttal, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

Q. (By Mr. O'Connor): What is your name? A. Samuel A. Virgil.

Q. Where do you live? A. 754 Dolphin Street.

Q. You are a minister of the Gospel, I believe? A. I am.

Q. And you are pastor of what church? A. Mount Zion Methodist Episcopal Church.

Q. That is at Gilmore and Riggs? A. That is right.

Q. How long have you been pastor of that church? A. Since March of this year.

Q. Where were you prior to that? A. At St. Paul's Church.

Q. Of this city? A. Yes.

Q. Do you know Florence Taylor? A. I do.

Q. Do you know George Taylor? A. I do.

Q. Do you know what their occupations are? A. I do not know what their occupations are.

Q. Do you know by whom they are employed? A. By Mr. Wolf, I learned.

Q. Have you since the Norris murder and hold-up had any conversation with Florence Taylor relative to the case?

(Mr. Robinson): Answer yes or no.

A. I have, yes.

Q. With Florence Taylor? A. Yes.

Q. Have you had any conversation with George Taylor? A. I have not.

Q. Did you ever have any conversation in the presence of George Taylor about the Wolf case? A. I have not.

Q. What was the conversation you had with Florence Taylor?

(Objected to.)

(The Court): You want him to put the question as he put it to Florence Taylor, is that right?

(Mr. Robinson): I do not know what he wants to prove but he has not laid a foundation for this question.

(Mr. Leach): The question is asked for the purpose of impeaching Florence Taylor.

Q. (By Mr. O'Connor): What conversation did you have with Florence Taylor?

(Mr. Robinson): When and where?

Q. Since the Norris murder and hold-up, in August of this year, at or near the Church of Mount Zion, at Gilmor and Riggs Avenue?

(Mr. Robinson): That covers two and a half months.

(The Court): We will let him answer and give you the exception.

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Eighteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND NINETEENTH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

A. I was in the church one night and I merely came into the church and Mrs. Florence Taylor was coming off from the choir and I said, "According to the papers those fellows were at your house where you work?" And she said, "I don't know who they were." That is all.

Q. What if anything did she say as to her attitude or condition on that night, how she was affected, if at all?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Nineteenth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

ONE HUNDRED AND TWENTIETH BILL OF EXCEPTIONS.

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence given:

Q. Did she or not say whether she was excited that night?
A. She did not say anything to me about excitement at all.

Q. What did she say about when her first knowledge was gained as to the identify of these men?

To which question the defendant objected, but the Court overruled the defendant's objection, and permitted said testimony to be given in evidence, and the question asked and answered, whereupon the defendant excepted, and prays the Court to sign this his One Hundred and Twentieth Bill of Exceptions, which is accordingly done this the 23rd day of January, 1923.

JAMES P. GORTER. (Seal)

After offering the evidence set out in the foregoing bills of exception, which are hereby made a part hereof, as fully as if they were incorporated herein in full, the said question was asked and answered, and the following evidence was given:

Q. Did she or did she not say that her husband, George Taylor, was or was not at the home of Mr. Wolf on the night of

August— A. She did not say anything about her husband at all.

Q. What was said to you about that?

(Objected to; overruled; exception noted.)

A. Nothing.

State of Maryland, City of Baltimore, to wit—

I hereby certify that the foregoing is a true copy of the record of proceednigs in the aforesaid case, taken and copied from the record of proceedings of the Criminal Court of Baltimore.

In testimony whereof, I hereto set my hand and affix the seal of the Criminal Court of Baltimore this 2nd day of February, A. D. 1923.

(Seal)

Edward Gross,

Clerk Criminal Court of Baltimore.

