RELATIONS OF BECKER AND ROSE DESCRIBED BY GOFF

the manner and bearing of each and every witness who has appeared before you. You must consider the hesitancy or eagerness of the witness, his relations to the defendant, his capacity or opportunity for observation and anything else about his attitude. The true issue in this case is the guilt or innocence of the defendant. All the testimony you have heard must have a bearing on this question."

CONSIDER ONLY TWO DEGREES OF MURDER.

Taking up the verdicts the jury may consider, Justice Goff described only murder in the first and murder in the second degree. The Court asked if the defense wished him to charge concerning manslaughter in any of its degrees and Mr. McIntyre replied that he did not.

"The humanity of the law," pursued the Court, "ordains that no man can be convicted unless on legal evidence. The charge against the defendant is murder in the first degree."

Justice Goff then read to the jury the law relating to murder, declaring there could be no finding for justifiable or excusable homicide.

"Murder," he said, "is sub-divided into three degrees. In the first degree it is the killing of a human being by premeditation and design. In the second degree, it is the killing of a human being without premeditation or deliberation. Unless counsel for the defense asks me to read the definitions of homicide, I shall not do so."

"We do not make any such request," said Mr. McIntyre, slowly and solemnly.

"I shall take up only the murder charges," continued Justice Goff.

PREMEDITATION AND DELIBERATION.

"Premeditation and deliberation," he said, "do not mean an expressed purpose to kill, but a man may deliberate and premeditate murder, designing to kill without letting that become known by word or actions.

"It is not necessary in this case to make any extended discussion on the evidence of premeditation. The prosecution claims that the defendant expressed his desire to have Rosenthal killed, and on several occasions reiterated that desire. The killing took place, and it is contended by the State that from the first expression of desire to have Rosenthal slain, as set out by the State, to the date of the killing, there was a plain inference of premeditation and deliberation on the part of the defendant, providing all the testimony of the State's witnesses is to be believed.

Justice Goff continued that it was of supreme importance that the jury should have fixed in their minds a clear idea of deliberation and premeditation. Relating from the case of the People vs. Conroy, the Court said that the Court of Appeals held that when it was shown that the murder was not done under impulse or through sudden and impulsive apprehension of danger there must be a certain amount of deliberation and premeditation.

DID BECKER HAVE TIME FOR DELIBERATION?

Justice Goff read several other similar rulings and then said:

These extracts form the body of information on which you can determine whether the defendant formed a deliberate and premeditated design to kill Rosenthal. You must decide whether the defendant, from the first expression of desire, to the time of the killing had time to reconsider his desire to have Rosenthal killed. If he did have sufficient time to reconsider, then, if the testimony is believed, he had time for deliberation.

"The law presumes that if there is a sufficient time between the inception of a felonious design and its execution the person so forming that design will have had the opportunity to choose between following out or rejecting that design. The law holds that if the felonious design is not rejected then there has been deliberation and premeditation as described in the definition of murder in the first degree.

"It is not necessary for me to dwell upon the degree of murder. The case rests upon premeditation and deliberation, or upon their absence.

"The State alleges that Becker, in April, called Rose into conference and told him to kill Rosenthal, expressing urgency that Rosenthal should be killed and demanding that Rose should aid. That involves proof that Becker did urge the murder upon Rose; second, that Rose acted on that urging, and, thirdly, that Rose, acting on that urging, had Rosenthal killed.

"I instruct you that if the State has proven those three charges, beyond, in the eyes of the law, is guilty of murder.

"It matters not whether Becker knew the gunmen, selected them for the murder, or ever spoke to them. If you are satisfied that Becker ordered Rosenthal killed, and that Rosenthal was killed as a result of Becker's orders, then, in the eyes of the law, Becker is guilty.

"The case of the prosecution," charged the Court, "rests upon proof that Rose carried out the instructions of the defendant and ordered the killing of Rosenthal. You must judge of this fact, and if you find that Rose carried out the design of the defendant to have Rosenthal killed, you must so find in the verdict. It rests entirely with you to so find, or else to reject the assumption contained in the prosecution's case.

"In view of the very great amount of testimony, I will narrate to you in skeleton form the testimony upon which the People base their case. That the testimony came from the lips of Jack Rose, I will read that without remark, so you will have a fair idea of his testimony, for I want to make it clear that you are the sole judges of the truth or untruth of the testimony of each witness."

Then, calmly, dispassionately, without offering any comment thereon, Justice Goff read his resume of Rose's amazing story of his relations with Becker.

Justice Goff read from Jack Rose's testimony that Rosenthal and Becker were introduced to each other at the Elks' Club last Thanksgiving night. They met again on New Year's eve.

COURT QUOTES BECKER'S TALK AT ELKS' CLUB.

"Becker said to Rose on that occasion," continued the Court, "not to worry, that he would take care of Rosenthal. Rose came to Becker and said that Rosenthal wanted to open a saloon in Rose's house, but didn't have the money. Now, it is alleged, advanced the money. The gambling house was opened.

"On March 26, 1912, the Commissioner of Police gave Becker an anonymous letter, complaining that Rosenthal's house was running under the protection of Jack Rose, Becker's collector. Two days later Becker reported that Rose was his 'collector' of information.' Two days later Becker received a letter from the Commissioner, purporting to have come from the Mayor, ordering an investigation.

"About that date Becker demanded $500 from Rosenthal for the defense of Piitt. Rosenthal refused to pay, and Becker said he was going to raid the place. Becker asked Rosenthal to stand for a fake raid, and Rosenthal refused. Margolis, a newspaper tipster, as he described himself, said Becker described the interior of the Rosenthal house to Officers Shephard, White and Steinert at Police Headquarters, and told them to get warrants for the fake raid.

"Later at the Union Square Hotel Becker told Rose that he had to make the raid—that Steinert and White had got the evidence against Rosenthal's place. Later Becker told Rose that the raid would be made on April 17. The raid was made on that afternoon and two prisoners were taken—one of them a relative of Mrs. Rosenthal.

"After the raid was made Rosenthal went to Becker and complained about it. Becker told Rosenthal not to worry, that the case would be fixed in the police court, that Steinert and White would not be able to identify their prisoners as the men against whom the warrants were issued on their affidavits.

MEETING OF ROSE AND BECKER AT THE HOTEL.

"Later Becker and Rose met in the Union Square Hotel. Waiters served Becker and Rose in the Union Square Hotel, where they spoke in whispers. Twice a waiter saw Rose pass money to Becker.

"On April 18 Becker reported to the Police Commissioner that he had raided the place. Later, at Rose's home, Becker told Rose Rosenthal wanted to know what was to be done. Then the satisfaction piece to the chattel mortgage was entered. Then Becker told Rose that Rosenthal was trying to get newspapers to denounce him (Becker). Then The World received the Rosenthal affidavit and Becker went to The World to get the affidavit to be used in a prosecution for criminal libel.

"Still later, Becker told Rose that Rosenthal had seen Magistrate McAdoo, Commissioner Waldo and Mayor Gaynor, and was then trying to see the District-Attorney, and that, Becker said, 'means danger to us all.'

"Becker said then, 'Rosenthal means to do me, and we must stop him.' Becker asked Rose to see Zelig. Becker said, 'There is only one thing to do to stop Rosenthal so that he won't do anything to bother any of us again, and that is to stop him for all time.'

"Becker said that Rosenthal was slandering his family. Becker said there was no danger, as he (Becker) would force care of him. He told Rose to tell Zelig to give orders to his gang to croak Rosenthal. That night Becker gave Rose money to give to Zelig.

REPEATS TESTIMONY ABOUT HIRING THE GUNMEN.

"Between June 20 and 25 Rose saw 'Lefty Louie' and 'Whitey' Lewis and said Becker wanted them to kill Rosenthal. They offered to do it that night. Rose told them to wait. Later Becker came to Rose and complained several times about the delay. In the latter part of June Becker, Rose, Webber and Vallon met at One Hundred and Forty-fourth street and Seventh avenue and there Becker asked Webber to take charge of the murder. This conversation was corroborated by Webber and Vallon. Later 'Lefty Louie' told Rose Webber had approached him. Then Luban heard Becker, in the Lafayette Baths, say if Rosenthal was not 'croaked' he would 'croak' him himself.

"Then Webber sent the gunmen to the Garden Restaurant to murder Rosenthal, but Rose, on the stand, swore he lied and told the gunmen a Burns detective was there. Thus, the witness Rose swore the murder was forestalled for a time.

"On Saturday, July 13, Webber, Rose and Vallon met and Rose told Becker they had discussed the murder of Rosenthal. On the night of July 13 Rose telephoned to Becker and Becker said to Rose: 'Why don't you get on the job and do something?'

"Late on Saturday, July 13, Becker and his attorney called on Isaac White in the New York World's legal department and asked for the Rosenthal affidavit, to be used for a criminal libel prosecution against Rosenthal."

COURT REVIEWS THE ROSENTHAL AFFIDAVIT.

Here Justice Goff briefly reviewed the Rosenthal affidavit.

"Becker," the Court went on, "then gave White a written denial of the Rosenthal affidavit. At that time White showed Becker a telegram from Newport, R. I., stating that District-Attorney Whitman was preparing to investigate Rosenthal's charges against Becker.

"On Sunday, July 14, Rose, Scheppe, Webber and Vallon went on the Sam Paul outing, and that night Becker telephoned to Rose and asked if there wasn't some way to croak Rosenthal before he testified to the Grand Jury."

Justice Goff reviewed the testimony about the visit Rose made to Dora Gilber to get an affidavit against Rosenthal. Then he read Rose's statement to Becker about the issuing of Grand Jury subpoenas for the investigation of the Rosenthal charges against Becker. Then the Court came to the activities of "Bridgie" Webber in plotting the assassination.

"Webber went to see the four men and told them not to corroborate Rosenthal. That same day Rose went to help get the Dora Gilbert affidavit. On the way back the tire exploded and Shapiro's car was secured. They went uptown and got Dago Frank, returning to Webber's poker room, where Rose, Webber, Scheppa and Vallon were gathered with the four gunmen.

WEBBER GOES OUT TO LOCATE ROSENTHAL.

"Webber went out and found Rosenthal at the Metropole. The gunmen rushed there in Shapiro's car. As Rosenthal emerged, a man raised his hand as a signal. Shots were fired and Rosenthal fell dead. The gunmen fled. At 3 o'clock Rose telephoned Becker, who congratulated him on the murder.

"At 3.30 Becker went to the Forty-seventh street station and saw the body of Rosenthal, and District-Attorney Whitman. At daybreak Becker met Rose, Webber, Vallon and 'Jack' Sullivan at Forty-second street and Sixth avenue and said to them: 'If it had not been for the presence of District-Attorney Whitman I would have cut out his tongue and hung it up as a warning to other squealers.' He also said: 'When I started uptown to-night from the Rights I told Otto, my chauffeur, that if I saw Rosenthal I was going to take a shot at him, and that I wanted Otto to put o nspeed and not to stop.'

"Later, on July 16, Webber gave Rose $1,000. He said he gave the money on request of Becker. Later in the afternoon of July 16 Rose went to Harry Pollok's flat. Later that day Becker telephoned to Rose and told him he was sending a lawyer to him to get an affidavit to show that he (Becker) had had nothing to do with the murder. He also wanted an affidavit from Pollok that Pollok had given Rose the $1,500 to lend to Rosenthal for his gambling house."

Here Justice Goff finished with Rose's testimony and came to the evidence tending to show that Rose and Becker were on intimate terms.

JUSTICE POINTS OUT SOME CORROBORATIVE EVIDENCE.

"The State," said the Justice, "has in part corroborated its testimony by the following: A servant at Rose's house swore Becker often went to Rose's house. So did Margaret Rose, a nurse. Mrs. Rosenthal swore she was present at the raid and that Becker told her he would cancel the mortgage. The mortgage was cancelled eight days after the raid. Witnesses have told you of the raid. Mrs. Louis Rosenberg, wife of Lefty Louie, testified Rose did visit her husband, as he had sworn. Scheppe said he saw Becker at the Harlem conference. He testified he got the auto for Rose. Shapiro testified he drove to the home of Dago Frank for him the night of the murder. Witnesses have sworn for the State that the four gunmen were friends and lived together, disappearing immediately after the murder.

"Walter Krause and Stanisch testified that these four gunmen, whom Rose said he hired were the four men who killed Herman Rosenthal in front of the Hotel Metropole."

TESTIMONY OF REPORTER HAWLEY REVIEWED BY COURT.

Justice Goff reviewed the testimony of Frederick Hawley, the reporter who had testified to being with Becker all morning on the day of the murder, without comment. Then he took up the testimony of the two telephone operators who had corroborated the fact that Rose telephoned to Becker to tell him of the commission of the murder, continuing:

"Harry Pollok has testified that he informed Becker where Rose was and that he (Pollok) gave Becker his telephone number so that he could call up Rose on the phone.

"Mr. Hart and a notary went to the Pollok house and were admitted when the initials 'J. H.' were given.

"That, gentlemen, is a resume of the testimony. Now I will narrate to you the movements of Becker on the day of the murder and the day following."

Justice Goff then reviewed Becker's attendance at the Madison Square Garden fights, the trip to The World Building and the trip to Forty-second street and Sixth avenue, where "Jack" Sullivan left the car, while Becker continued to his home. There he received word of Rosenthal's murder, came downtown, went to the West Forty-seventh street station and later met the conspirators at Forty-second street and Sixth avenue, about daylight.

MUST TAKE ALL THE EVENTS INTO CONSIDERATION.

"Now, gentlemen, I instruct you not to exclude from your consideration any of the events that have come up for your consideration. Nor should you give any special consideration to the events I have just narrated to refresh your memory. You must seek to carry in your minds all the evidence presented to your consideration. You must review them as they came to you and value them as you estimate the credibility of the testimony in which those events were described.

"It is not claimed by the State that Becker actually killed Rosenthal. It is claimed he requested others to have the killing done. But I direct you that if you believe Becker urged the killing Becker is to be held guilty of the murder because he inspired it, and in the eyes of the law is a murderer."

Judge Goff read section 29 of the Penal Code, which provides that any person who aids and abets in the commission of a crime, even if absent from the scene of the crime itself, or who commands, directs or instigates a crime, is equally guilty with the actual perpetrators of the offense.

To the reading of this section of the Code the Justice warned the jury to give particular heed, declaring it was the very crux of the case.

COURT EXPLAINS HOW LAW AFFECTS BECKER.

"You will see," the Justice said, "the broad and comprehensive scope of that law. No further elucidation of it could make it more clear and explicit. The situation is where one man might suggest or inspire the idea to commit a crime in another man's mind. Such is the old common law designation of an accessory before the fact. But in our law there is no such distinction. Every person engaged in the commission of a crime is a principal before the fact. The remoteness of Becker from the actual scene of the commission of the crime does not in any particular relieve him from responsibility for the commission of the crime. He stands indicted from the fact that he aided, abetted, inspired and instigated the crime.

"It is apparent from this testimony that the men who in the main have testified against Becker are accomplices. There is no question about Rose, Webber and Vallon being accomplices. I charge you that they are from their own admissions. But there is doubt as to whether Scheppe is an accomplice.

MUST USE DISCRETION AS TO SAM SCHEPPS.

"With regard to Scheppe I must say that I am in doubt, and as I am in doubt I must instruct you that you must use your own discretion in deciding whether or not Scheppe was an accessory in the commission of the crime. The decision must rest with you as to Scheppe and how far he was implicated in the murder.

"If I recollect aright, there is no direct evidence that before the murder Scheppe had any knowledge of the contemplated crime or took part in any of the plans. His relations with the men may generate a suspicion, but mere suspicion is not proof. Though he may have suspected the purpose of Rose, Webber and Vallon, yet that suspicion would not be sufficient to warrant me in saying he was a principal to the crime. Rose, Webber and Vallon admit they are accomplices, used, they claim, by the express orders of defendant Becker.

"Webber denies that Scheppe was taken into his confession. There is no testimony to warrant a judge as a matter of law in deciding whether or not Scheppe was a co-conspirator, and therefore I can only charge you that you must determine this fact from the testimony.

"There is no question that after the murder Scheppe had equal knowledge of the crime, but that does not make him an accomplice. An accomplice must have had some hand in the commission of the crime. Under the law he is an accessory after the fact. So I submit the question to you to decide whether he is an accomplice.

"It is a rule of law that one accomplice cannot corroborate another. There must be some other testimony under the law."

Section 81 of the Penal Code was then read by the Justice. This section declares there must be corroboration of the testimony of accomplices by such other evidence as tends to connect the defendant with the commission of the crime.

"The extent, kind or quality of the evidence is not defined by the law," said the Court. "It is unnecessary for me to define the word 'tend.' You must decide if there has been such other evidence as tends to connect the defendant with commission of the crime. I send it to you gentlemen, and it is for you to say if such corroborative evidence is sufficient to tend to connect the defendant with the commission of the crime.

JURY MUST DECIDE AS TO WHO ARE ACCOMPLICES.

"Formerly, testimony of an accomplice was accepted in the courts as sufficient to secure a conviction. But a more liberal and human custom arose not to convict on the uncorroborated testimony of an accomplice. Then, on the advice of judges, this custom became a law, but it was left wholly in the discretion of a jury to decide who are and who are not accomplices, and to decide whether the testimony of an accomplice has been corroborated by the witnesses.

"It would be impossible to outline the most important features of evidence. Every case must rest upon its own total of evidence. It is for the jury to say how far the testimony of the admitted accomplices has been corroborated.

"On the testimony of the accomplices! the law permits such testimony. It does not say such testimony may not be received. On the other hand, it says accomplices' testimony must be received and that you must accept it for what you believe it to be worth.

"The law recognizes that in many cases the exigencies of the occasion demand that testimony of accomplices should be taken.

"There is no inhibition on you of accepting the testimony of Rose or Webber or Scheppe, for the law recognizes the value of that evidence. The law recognizes the exigencies that made it absolutely necessary to use such evidence in order that the ends of justice may be served. The law cannot exclude such evidence and this jury must weigh it for what it is worth.

"There are three stages of a crime: First: Preparation for the crime itself. Second: The commission of the crime. Third: Hiding the traces, so that the criminals may escape. Out of that third clause, occasions arise that make it necessary often for the State to use the accomplices as main witnesses. There is nothing in the law to make you exclude the testimony of confessed accomplices. Instead, the law directs you to take the testimony of the accomplices and give it such weight as you believe it merits."

Justice Goff justified his course in rushing the trial, saying that it was important that the jurors should have had a continuous stream of evidence poured before them; that the complexities of the evidence made it necessary to lay before them a continued narrative.

"Jack Rose," continued the Court, "Was under direct examination for three hours and under cross-examination for seven. He was compelled to testify in a continous strain, and you must consider that no time was allowed between cross and direct examination for him to change his story."

Justice Goff then took up the credibility to be given to the testimony of the witness, declaring that rested entirely in the minds of the jurors, but adding that the appearance of the witness on the stand, his manner, his answers, his attitude—all these should be taken into considerations.

HOW TO WEIGH TESTIMONY OF JACK ROSE.

"Of the witness Rose," said the Justice, "you must consider the environment of his life in the slums and his occupation, the frankness or diffidence with which he answered questions, his ability to withstand the rigid and grilling cross-examination of the learned counsel for the defense, the manner in which he told his story and the manner in which he stuck to that story under cross-examination.

"Is it within the probabilities of his mentality to concoct such a story? Is it humanly possible that he could sit upon that witness chair and concoct such a story, with all its details and ramifications? You must decide that. You must recall how he stuck to it under cross-examination. You must consider his relations with the defendant and his social relations.

"It is of crucial importance for you, gentlemen, to decide if Jack Rose's story was a creation of his own brain or whether he narrated to you the facts and circumstances of the crime.

"As I before instructed you, it is within your power to believe or disbelieve his story in whole or part. If he impressed you as telling a story that was a pure concoction of his brain, with no foundation in fact, the People's case must fall.

"Gentlemen, in common language, look at this testimony squarely. On Rose's story largely depends the guilt or innocence of the accused.

"If you regard the testimony of Jack Rose as true then you must bring in a verdict of guilty, but if you reject the testimony of Jack Rose then your verdict must be an acquittal.

DISCUSSES THE THEORY OF A GAMBLERS' PLOT.

"If you believe Jack Rose you will find the defendant guilty. If you do not believe him you must find him not guilty."

Justice Goff turned to the defense's contention that Becker is the victim of a gamblers' conspiracy. He said on this score:

"It has been contended that Rosenthal, because of certain traits of character, was very unpopular among the gamblers and that they—the gamblers—killed him, and in order to escape they now seek to place the blame upon Becker. In considering that I instruct that even if Rose and Webber were hostile enough to engender expressions and threats to kill Rosenthal, that would not be an excuse for Becker if he availed himself of their hostility to Rosenthal to have Rosenthal killed because of his own hatred.

"If a stranger enters a conspiracy already made he becomes a principal.

"Reference has been made here to a motive. Motive is not necessary where proof of a crime is clear. Where the proof is circumstantial, it is necessary to prove a motive. In addition to trying to prove direct connection with the crime the people have tried also to show a motive that would have inspired Becker to the commission of this murder."

Justice Goff went on to say that the motive suggested was Becker's dread of exposure by Rosenthal and subsequent charges of wrongdoing.

JUDGE DISCUSSES THE POSSIBILITY OF MOTIVE.

"It is in evidence that he entered into partnership with Rosenthal in the gambling house and that, because of complaint from his superiors, Becker 'framed' a raid on Rosenthal. Rosenthal refused to stand for the fake raid and refused to give money to Becker. Rostive, the gambler determined to reveal to the public his connections with Becker. He had gone to the newspapers with his affidavit, the District-Attorney had announced he would investigate and Grand Jury subpoenas had been issued.

"The defendant, recognizing the desperation of his own position, may have been driven to order the murder to save himself. To remove Rosenthal would have been to still his voice so that he could not make the revelations he was threatening. There, in the State's contention, was the motive of the defendant for ordering the killing.

"There is no claim in this evidence that he came in direct contact with Rosenthal, but it is set up that he employed Rose to act for him in his relations with Rosenthal.

"Now you have all these facts in your minds and you must deliberate them with great care. The defense denies that there was any motive, and as I said before you must put upon the prosecution the burden of proof."

"The rule of law which requires corroboration of an accomplice does not require corroboration of every detail of the story of the accomplice. It requires only corroboration of enough of the accomplice's story as to prove that the story is circumstantially true.

"It is for the jury to decide whether the corroboration is sufficient in this case to warrant you in believing the stories told by Rose, Webber and Vallon.

HOW THE LAW FAVORS THE DEFENDANT.

"I have spoken of circumstantial evidence. It is the rule of law that if such evidence is capable of two constructions, one capable of construction for the defense and the other for the People, the jury must accept that construction which is favorable to the defendant."

Justice Goff then narrated to the jury the legal definitions of "direct" and "circumstantial" evidence, and continued:

"Even eye-witnesses may differ in detail, and you must take that story which impresses you most with its truth."

The Court then read extracts from various decisions of the higher courts as to the admissibility of circumstantial evidence before a jury and the weight to be given by the jury to such evidence. He repeated his charge that the defense must be given the benefit of any doubt as to circumstantial evidence, and added:

"Counsel for the defense has handed me requests for 144 charges to the jury. Because of their length and the time it would take me to rule on these charges I have grouped these requests, and most of these are ruled out. Some of them I will read."

The Court then took up the voluminous document and read certain charges asked for by the defense. They were technical in their nature and dealt with points of law.

The demand of the defense that Judge Goff charge that Sam Scheppe was an accomplice was declined by the Court. "That," he said, "is a matter I leave in the hands of the jury."

At the conclusion of the reading of twenty-five of the fourteen charges asked by the defense, Justice Goff read four of the charges asked, modifying them, however, before he permitted them to go before the jury. To all of this Attorney McIntyre interposed exceptions. The reading of these purely technical charges, which were filed as a basis for an appeal in the event of conviction, occupied more than half an hour.

MUST TAKE BECKER'S CHARACTER INTO CONSIDERATION.

Continuing, Justice Goff said

"Now, gentlemen, you have heard all the testimony. Evidence of good character is a matter for the Jury to pass upon. You have a right to take into view all the circumstances surrounding the character of this defendant. He was a police officer and it is for you to decide the merit of the testimony as to his own peacefulness. There is one rule you must remember: That good character is, in itself, no proof whatever of innocence. If you have decided beyond a reasonable doubt that Becker is guilty, evidence of good character cannot be permitted to enter into the framing of your verdict. It cannot be allowed to sway your sentiments.

"I express no opinion as to the guilt or innocence of this prisoner. I have endeavored to do nothing that would reflect upon the prisoner or bias you in any way. It is your prerogative to decide upon the facts.

"I may have a personal opinion. No man can listen to the evidence and not form one. But as a judge I have no opinion, and this jury heard no expression from me indicating what my own opinion is. If you think you have I order you to disregard it.

"There is one thing I want to call to your attention and then I am done. No two minds are exactly the same, and in an effort to determine what is a reasonable doubt there may be a conflict. The term means a doubt that must exist in the minds of every juror. Each juror must search his conscience to be judged thereby. In human affairs absolute certainty is impossible. Men are differently constituted and do not think and act alike. The fairest man is the man who is open to conviction—that is the kind of man the law says can understand a reasonable doubt.

"If you are satisfied beyond a reasonable doubt it becomes your duty to find a verdict against this defendant. If you are satisfied of his innocence you are to return a verdict of not guilty.

"Now, gentlemen, I am sure this man will receive at your hands a verdict such as twelve good men should deliver. With honesty, justice and impartial duty you are to return your verdict. This defendant is not on trial because he is a policeman. The Police Department of this city is not on trial. This man is not charged with graft or extortion. No matter what may be the state of the public mind, you must remember that this man is charged only with the murder of Herman Rosenthal—that is all.

"You are there to say whether he is guilty or innocent. You are not to consider the consequences that may follow your verdict. You are to decide only whether he has been proved guilty or innocent."

JURY MUST NOT FEAR THE CONSEQUENCES.

"You must not be apprehensive of what may follow. Do as you think should be done and return your verdict in accordance with your conscience, realizing that in that verdict you will receive the commendation of your fellow-citizens."

Justice Goff concluded his charge to the jury at 1.55 P. M.—three hours and twenty-five minutes after he started.

Mr. McIntyre then interposed objections, for the purpose of record, to Justice Goff's refusal to charge the jury as had been demanded by the attorneys for the defense. Further, he demanded that the jury be instructed that there must be no compromise verdict, but a verdict based upon the true conviction of every juryman. This Justice Goff immediately did.

Mr. McIntyre further excepted to all modifications made by the Court in charging on the defense's requests. He also asked that the jury be charged to give due consideration to the witnesses who deposed in Hot Springs. This was done. The defense then excepted to the Court's citations from former court decisions and to the Court's statement that "Rose was Becker's tool." A number of other exceptions were entered to Justice Goff's action in reading to the jury the resume of the case, "as indicating the People's case and the People's case only," said Mr. McIntyre.

"If you have any skeleton of the defendant's case, I will read it, too," said Justice Goff. The defense produced no resume of the case, standing by its noted exception. Nearly fifty exceptions to the Court's charge to the jury were filed by Mr. McIntyre.

The noting of these exceptions occupied twenty-three minutes, and it was 2.18 when Justice Goff turned to the jurors and handed the bill of indictment to Foreman Skinner.

"I want you gentlemen," he said, "to remember that the resume of the testimony, as I read it to you, was not to form the slightest weight in the making of your verdict. You may retire and make up your verdict.'

It was exactly 2.20 P. M. when the jury left the box.

When the news got out that the jury had assembled for deliberation on the verdict, an immense crowd gathered in the corridors of the Criminal Courts Building. There were few women present. In the throng were many policemen off duty.

The prevailing opinion appeared to be that the jury would disagree.

Even money that a disagreement would result was offered in saloons in the vicinity of the court house. The crowd came prepared for a long wait and was particularly thick in the halls and on the stairways outside Justice Goff's court-room.

"GOFF'S CHARGE UNFAIR TO ME" SAYS BECKER "FAIR" SAYS WHITMAN.

The following comments on Justice Goff's charges to the jury were uttered at the conclusion of the trial this afternoon and before the jury had begun consideration of the case.

LIEUT. CHARLES BECKER.—Judge Goff's charge to the jury was not actually a charge, but a summing up for the prosecution. There was nothing fair about it and no justice in it. The Court simply directed the jury to convict me.

Mrs. CHARLES BECKER — Justice Goff in his charge to the jury summed up the prosecution's case more completely than did Attorney Frank Moss. It was most unfair, as all the proceedings in this persecution of my husband have been.

DISTRICT-ATTORNEY WHITMAN—I consider Justice Goff's charge to the jury as absolutely fair and impartial.

FACTS ABOUT JURY WHO WILL DECIDE BECKER'S FATE.

Four are bald.
Eight have mustaches.
Four wear glasses.
Ten are married.
Ten are blue-eyed.
All are American born.
Nine are business men.
Two are mechanical engineers.
One is an architect.
One is named Becker.

EVERS OFFICIALLY NAMED MANAGER OF THE CUBS.

CHICAGO, Oct. 24.—Official announcement of the selection of John Evers as manager of the Chicago National League baseball team was made to-day by C. W. Murphy, president of the club. Terms of the contract, which Evers was scheduled to sign late to-day, were not given out. Frank Chance, whom Evers succeeds, has stated that his salary has been $6,000 for each of the last three seasons.

MISS JOURNEAY'S FIX.

Must Pay $2,127.75 Before She Can Get Her Imported Clothes.

Miss Katherine Journeay of No. 245 West Eighty-sixth street, who arrived here on the Kaiserin Auguste Victoria early in the week with her mother and twelve trunks, failed to explain satisfactorily to-day to Special Deputy Surveyor of the Port Smythe why she had declared goods worth less than $500 when more than twice that value was found in her luggage.

To get her foreign-made dresses and other things back Miss Journeay will have to pay $2,127.75, the sum of their value abroad and the duty. Also she may not yet be through with her explanations.

GOV. OSBORN HURT IN WRECK.

Michigan Executive Suffers Injury to Foot at Chicago.

CHICAGO, Oct. 24.—Gov. Chase S. Osborn of Michigan was a passenger on a Michigan Central train that was struck early to-day by a Big Four train in the fog that prevailed over the South Side in this city. Gov. Osborn was slightly injured in the right foot and had to use a cane after the accident. He was accompanied by Mrs. Osborn, who was unhurt.

The Governor came here to deliver a political speech.

MASSACRED BY TURKS.

Seventy Christians and Priest Victims After Victory by Greeks.

WASHINGTON, Oct. 24.—Seventy Christians and a priest were massacred by the Turks before their retreat from the town of Servia yesterday, according to an official cable from the Greek foreign office to the legation here to-day. Among the prisoners taken was one Turkish Colonel.

FOR GOOD WILL TO FRANCE.

Prominent Men Incorporate a Committee to Promote Friendly Relations.

Articles of incorporation of the Franco-American Committee, Inc., were signed by Supreme Court Justice Greenbaum to-day. The new corporation is an organization of prominent men, the purpose of which is to promote friendly relations between France and this country. To that end a magazine is to be published.

The incorporators are Frederic R. Coudert, legal representative of the French Consulate here; Nicholas Murray Butler, President of Columbia University; John H. Finley, President of the College of the City of New York, and Paul Fullet jr.

The board of directors will include: Henry [illegible] of Washington, D. C.; J. P. M[illegible], Henry Van Dyke, W. K. Vanderbilt, A. Barton Guthrie, George Foster Peabody, John Claflin, Joseph H. Choate and Robert W. De Forest.

POSLAM SOAP PUREST AND BEST FOR THE SKIN

Poslam Soap for daily use, toilet and bath is superior to all others as a means of improving the color and texture of the skin, assuring its continued health.

Makes hands soft.
Soothes tender skin.
Protects against disease.
Beautifies the complexion.

Poslam Soap obtains its extraordinary beneficial virtues through its medication with Poslam, the famous skin remedy—ideal as the active factor of a soap. Every cleansing operation with Poslam Soap thus becomes a positive source of healthfulness.

Poslam Soap is so pure that it may be used in the mouth for cleansing teeth and gums. It is especially adapted for use on tender skin—soothing and delightful. Best and safest for baby's bath. An aid in eradicating dandruff, and greatly beneficial whenever scalp difficulties exist.

In appearance, color and scent, Poslam Soap is the aristocrat of soaps, so superior in every quality that a trial leads to its continued use. The cake is unusually large and lasting; price 25 cents; for sale by all druggists.

For free sample of Poslam Soap, write to the Emergency Laboratories, 52 West 25th Street, New York City.

BODY AND FACE MASS OF ECZEMA

Grew Worse Until Hands and Feet Swollen and Running Sores. Skin Would Drop Off in Scales. "Practically a Shut-in." Cuticura Soap and Ointment Entirely Cured.

Brownville, N. Y.—"Cuticura Soap and Ointment cured me of a stubborn case of eczema which followed a severe case of scarlet fever. My body and face was a mass of sores so that I was practically a shut-in. It grew worse until my hands and feet were swollen and running sores. I tried many remedies. One kind which I used fairly burned my skin up so that it would drop off in scales as if it was scalded. But thanks to good advice I then used Cuticura Soap and Ointment. In a short time I was entirely cured. Now my skin is clear as ever and I have had no return of the disease. I hope this letter will help the suffering ones who are fighting eczema." (Signed) Miss Edna Bidwell, Jan. 10, 1912.

TO REMOVE DANDRUFF

Prevent dry, thin and falling hair, allay itching and irritation, and promote the growth and beauty of the hair, frequent shampoos with Cuticura Soap, assisted by occasional dressings with Cuticura Ointment, afford a most effective and economical treatment. Sold by druggists and dealers everywhere. Liberal sample of each mailed free, with 32-p. Skin Book. Address postcard "Cuticura, Dept. T, Boston."

Tender-faced men should use Cuticura Soap Shaving Stick, 25c. Sample free.

Many

of the best dressed men, women and children you meet are wearing Lenox-made

Clothing No Money Down $1 A Week

On Anything You May Select

They're people who know the value of money, the value of good appearance and the advantage of our confidential terms of credit.

Full Line of Furs and Fur Coats

Lenox Clothing Co.

2274 3d Av. Bet. 123d & 124th | 7 W. 14th St. Bet. 5th & 6th Ave.
Open Evenings Until 9 P. M.

Special Offer This Week Only
No free gifts. But workmanship guaranteed.
3 PIECES REUPHOLSTERED in tapestry, silk gimp. Old frames polished like new. $5
COVERS $3 Belgian Damask.
Call, Write or Phone to Main Office. Our man will call with full line samples.
Standard Upholstery Co.,
19 East 14th St. Phone 3718 Stuyvesant.

Dr. V. C. BELL'S TOOTH POWDER

Thousands Owe Their Teeth To It!

LOST, FOUND AND REWARDS.

LOST—Between Ninety-third and Ninety-sixth streets, on Broadway, two diamond rings; one solitaire with initials J. E. to A. M., Dec. 20, 1909; other sapphire, ruby and diamond. Thursday noon; reward. PAULSEUR, 3143 B'way.

DIED.

DONLIN.—Oct. 22, at her residence, 826 West 111th st., MABEL HITE DONLIN, in the 26th year of her age, dearly beloved wife of Michael Donlin and daughter of Elsie Sweet and Lewis Hite. Funeral services at THE FUNERAL CHURCH, 241 West 23d st. (Frank E. Campbell Building), Friday afternoon, at 2 o'clock.

ROBERTS.—On Tuesday, Oct. 22, at her late residence, 412 W. 38th st., FANNIE ROBERTS, beloved wife of the late George E. Roberts. Funeral services at Calvary Church, 21st st. and 4th av., on Friday, Oct. 25, at 10 A. M. Interment Evergreen.

LOTS OF BEAUTIFUL, GLOSSY HAIR, NO DANDRUFF—25 CENT "DANDERINE"

Hair coming out?—If dry, brittle, thin or your scalp itches and is full of dandruff—Use "Danderine."

Within ten minutes after an application of Danderine you cannot find a single trace of Dandruff or a loose or falling hair and your scalp will not itch, but what will please you most will be after a few weeks' use, when you will actually see new hair, fine and downy at first—yes—but really new hair—growing all over the scalp.

A little Danderine will immediately double the beauty of your hair. No difference how dull, faded, brittle and scraggy, just moisten a cloth with Danderine and carefully draw it through your hair, taking one small strand at a time. The effect is amazing—your hair will be light, fluffy and wavy, and have an appearance of abundance; an incomparable lustre, softness and luxuriance, the beauty and shimmer of true hair health.

Get a 25 cent bottle of Knowlton's Danderine from any drug store or toilet counter, and prove to yourself to-night—now—that your hair is as pretty and soft as any—that it has been neglected or injured by careless treatment—that's all—you surely can have beautiful hair and lots of it if you will just try a little Danderine.

Red Cross Cough Drops. Make the throat feel glad. 5c. a box.

CANDY

PENNY A POUND PROFIT (Trade Mark.)

Special for Thursday, the 24th
SUGAR PEPPERMINTS AND WINTERGREENS; 20c value elsewhere. POUND BOX 10c
Thursday's Offering
ASSORTED NUT BARS; 50c value elsewhere. POUND BOX 35c

Special for Friday, the 25th
CHOCOLATE COVERED ASSORTED FRUITINAS; 25c. value elsewhere. POUND BOX 10c
CHOCOLATE COVERED MARSHMALLOWS; our regular 25c goods. POUND BOX 19c

Park Row and Cortlandt street stores open every evening until 11 o'clock. All our stores open Saturday evening until 11 o'clock.

Milk Chocolate Covered Butter Chips
Dainty, conveniently sized chips of appetizing molasses, smothered completely in a blanket of our Premium Milk Chocolate. POUND BOX 39c

Loft's 5 Stores
54 BARCLAY St. Cor. West Broadway
29 CORTLANDT St. Cor. Church St.
PARK ROW & NASSAU At City Hall Park
206 BROADWAY Cor. Fulton St.
147 NASSAU ST. Cor. Beekman & Spruce Sts.
The specified weight in each instance includes the container.