

Q. Didn't you say awhile ago that he told you to cross your legs and he would put it between your legs? A. He says: "Lay down here, or I'll hit you with this club."

Q. If you didn't lay down he would hit you with the club? A. Yes.

Q. What time o'night was that? A. I told you about nine o'clock or half past eight.

Q. Anybody with you? A. Yes sir.

Q. Who? A. Ed. Gilmore.

Q. Ed. was standing by, was he? A. Yes.

Q. How close was he to you? A. Just as far as he could reach, about. Ed. was trying to pull away too.

Q. Did he have Ed. too? A. Yes, he had Ed. by one hand and me by the other.

Q. And he took Ed. and you to the lumber yard? A. Yes.

Q. And he put you down then and got on top of you? A. Yes.

Q. Did he hold Ed. whilst he was on top of you? A. No sir, not as I seen, because I was trying to get away from Lee, and Lee I suppose was holding me there, as far as I know, may be he left him loose.

Q. What did Ed. do? A. He was standing there.

Q. Did he let Ed. go? A. I suppose he did.

Q. Did Ed. run? A. Not as I seen. When he let me up then I run.

Q. How long did he keep you down there? A. About a minute I guess, or two minutes.

Q. When you got up was Ed. still there? A. Yes sir.

Q. What was he doing? A. He was standing there.

Q. Anybody else there? A. Lee was there.

Q. You and Ed. and Lee? A. Yes sir.

Q. How far were you from the street? A. A half block.

Q. Did he drag you in there? A. No, he didn't drag me

Q. Do you know where his beat was?
in there exactly, he pulled me in there.

Q. And did he pull Ed. too? A. I don't know if he pulled Ed. It was a combination I suppose between him and Ed.

Q. You think it was a combination between him and Ed?

A. I suppose so, I don't know.

Q. Where is Ed? A. He is working I suppose.

Q. Aint he here to-day? A. Not as I know.

Q. Wasn't he subpoenaed as a witness?

Objected to.

(No answer)

Q. Then you and Ed. went in together? A. Yes.

Q. He had you by one arm and Ed. by the other? A. Yes.

Q. And he got you into the lumber yard? A. Yes sir.

Q. And then you took your breeches down? Was it a cold night? A. No, it wasn't, it was a warm night.

Q. A warm night in March? A. It wasn't so cold and it wasn't so warm, it was kind of a warm night.

Q. About what time of night was it? A. I told you about a quarter to nine or half past eight or eight o'clock, somewhere along there.

Q. Did you see any other policeman around the neighborhood? A. No sir, only Lee.

Q. Is that Lee Smith's beat, or was it his beat at that time? A. Where, on Clinton Street?

Q. Down where he caught you and took you into the lumber yard? A. I suppose it was, or he wouldn't be there.

Q. Well, was he there that night? A. Yes sir.

Q. Do you know where his beat is, or was at that time?

A. No sir.

Q. Now don't you know Lee Smith wasn't down there that night at all? A. Well, if it wasn't him it was pretty funny. It was him all right.

Q. Do you know where his beat was? A. It was around Madison Street somewhere.

Q. Do you know what time Lee Smith got off duty at night? A. No sir.

Q. How often did Lee Smith come down there? A. Pretty near every other night, may be every night, something like that.

Q. What hour in the night would he come? A. About half past seven or eight o'clock, something like that.

Q. What time would you generally get home at night?

A. Somewhere around nine o'clock, quarter after or half past nine.

Q. And then you would always see Lee Smith there before nine o'clock? A. Oh, not always, once in a while.

Q. Well, generally about seven o'clock? A. Half past seven or eight I says.

Q. Did you see any other police officer there? A. No sir.

Q. Now when you went into this lumber yard did you see anybody else? A. Seen Gilmore and him.

Q. Wasn't there a crowd of people all around there on the street? A. No sir.

AT THIS POINT A RECESS WAS TAKEN UNTIL 2:30 P.M.

AT 2:30 P.M. THE CROSS-EXAMINATION OF HENRY SPREEN WAS RESUMED BY JUDGE CLAIBORNE AS FOLLOWS:

Q. How was the officer dressed on this night? A. The officer Lee?

Q. Lee Smith? A. He had on his uniform.

Q. Well, did he have an overcoat on? A. Yes sir.

Q. Now you say that it was warm weather? A. Yes sir.

Q. You are certain he had his overcoat on? A. Yes sir.

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Q. Now where is this lumber yard? A. Across the street from Gaus's box factory.

Q. I mean what street? A. It's on Madison and runs to North Market, and Clinton runs in it.

Q. Now, young man, you have got that wrong. There is no such lumber yard there, is there?

THE COURT: Ask him if he is mistaken about it, if he is sure. See if he can give the exact location of that lumber yard.

WITNESS: Monroe runs right in it.

Q. What? A. Monroe.

Q. Monroe runs into it? A. Yes.

Q. Well, then, on what street does it front--the lumber yard--do you know? A. No sir.

Q. Well, do you know upon what street that lumber yard fronts? A. No sir.

Q. You do not? A. No sir.

Q. Why, you live right there, don't you, in that neighborhood? A. No sir.

Q. How far do you live from that lumber yard? A. About twelve blocks away from it, may be more.

Q. More than twelve blocks? A. Yes sir, more. I live at 926 High Street.

Q. And you don't know, then, where this lumber yard is?

A. I know where it is, but I don't know what street it's on exactly.

Q. Is it on Broadway? A. No sir.

Q. Is it East of Broadway, between Broadway and the river? A. Yes sir, between the river and Second.

Q. Well now, I am not talking about where you live now, but at the time you say this thing happened? A. Yes sir.

Q. Didn't you live in that neighborhood? A. Yes sir.

Q. Well, that is what I asked you, how far was it from

where you lived at that time--this lumber yard, how far was it, or about how far was it from where you lived? A. About six blocks.

Q. About six blocks from where you lived at this time?

A. Yes sir.

Q. Now you say it was between Broadway and the river?

A. Between Second and the river.

Q. Between Second Street and the river? A. Yes sir.

Q. Now from what street did Smith take you into this lumber yard when he caught you by the arm as you have stated?

A. A block away from Broadway.

Q. A block away? A. Yes.

Q. How far did he carry you before he got you to the lumber yard? A. About a block or two blocks.

Q. From one to two blocks? A. Yes.

Q. He had you by the arm? A. Yes.

Q. And did he have the other boy by the arm? A. Yes.

Q. What is that boy's name? A. Ed. Gilmore.

Q. He had you by one arm and Ed. by the other? A. Yes sir.

Q. And then you think he carried you from one to two blocks? A. He never carried me.

Q. Well, but he walked? A. Yes.

Q. With each of you on either side of him? A. Yes.

Q. Now did he have his club? A. Yes sir.

Q. What hand did he have his club in? A. I didn't take notice to that.

Q. Well, did he take his club out? A. Yes sir.

Q. And had you both by the arm? A. When we was down in the lumber yard he had his club in his right hand.

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Q. Well, then, what hand did he have you with, his right or his left? A. He had me with his right coming down and

Gilmore with his left.

Q. And then did he have his club out at that time?

A. No sir.

Q. Where was his club? A. It was hanging on his belt I suppose.

Q. You didn't see it, did you? A. I seen it when he pulled it out, when he had it in his hand.

Q. Where did he first pull his club out? A. Down in the lumber yard.

Q. What did he say when he pulled his club out? A. When he pulled it out he says: "Lay down there, or I'll hit you with this club."

Q. Well, he didn't pull his club then until he got you into the lumber yard? A. Yes sir.

Q. Now did he have his belt on around him? A. I suppose he had it around him, I don't know.

Q. Do you know whether he had or not? A. Sir?

Q. Do you know whether he had his belt around him?

A. I suppose he had his belt around him, because he carries his club there.

Q. Did he have his pistol? A. I never looked for his pistol.

Q. You didn't see his pistol, then? A. No.

Q. He didn't pull out his pistol? A. No.

Q. Did he pull his overcoat off? A. No sir.

Q. What time, now, was this, about what time? A. I told you once, I told you it was half past eight or quarter to nine.

Q. Now what were you doing down there, six blocks from home, at that hour of the night? A. We was playing.

Q. Now what game were you engaged in playing there?

A. Bombay or Old Man's Out, I don't know which.

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Q. How many of you boys were there playing?

A. About six or seven, eight, somewhere around there.

Q. Who were they? A. I don't know who they were exactly.

Q. Do you know any of them? A. Yes.

Q. Well, can you give us the names of any of them that were playing there with you? A. There was Peter Walsh, he was down there, and "Skinny" Warren and a few fellows like that.

Q. Now did this officer come up where you were playing?

A. Yes sir.

Q. And took you two boys right out of that crowd?

A. No sir, he waited a little while.

Q. What became of the other boys? A. We were still playing.

Q. Well, but you say he waited awhile? A. Yes sir.

Q. And then what became of the other boys, six or eight of them? A. I don't know, sir.

Q. Well, he waited until they all left, did he?

A. I suppose so.

Q. Well, do you know whether he did or not? A. He waited until there was about three or four there.

Q. Well, were there any other boys there when he took you by the arm? A. Yes sir.

Q. Well, did you holler? A. Yes, I did.

Q. Did you make a noise? A. Yes sir.

Q. Did these other boys hear you? A. They run.

Q. What made them run? A. Because they seen him grabbing me.

Q. Did they say anything? A. No sir.

Q. Well, you boys weren't doing anything to be arrested, were you? A. No sir.

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Q. You were not on Lee Smith's beat at that time? A. Yes sir, I suppose it was his beat, ~~XXXXXXXXXXXX~~ or he

wouldn't be down there.

Q. Down there in that part of town? A. I suppose so, or he wouldn't be down there.

Q. Well, you know, young man, that his beat is not anywhere near there, don't you?

Objected to.

Q. Well, don't you know his beat wasn't anywhere near that place? A. Well, he was down there, any way. If that aint his beat he was down there.

Q. And then you hollered. What did you holler when he grabbed you? A. I says: "Let me alone, Lee." I hollered it loud. I hollered it three or four times.

Q. What did the other boys do? A. They run, all but one.

Q. Who was that fellow? A. Gilmore.

Q. Then he grabbed Gilmore? A. Yes.

Q. Then he took you and Gilmore two blocks down to the lumber yard? A. About two.

Q. Have you been talking to anybody about this case?

A. No sir, not as I know of.

Q. Did you talk with anyone about this case? A. No sir.

Q. Haven't mentioned it to anybody? A. No sir---I told the Grand Jury.

Q. I am not talking about what you told the Grand Jury. Have you talked to anyone else outside of the Grand Jury?

A. Yes sir, the Captain.

Q. Captain of Police? A. Yes sir.

Q. Anybody else? A. No sir.

Q. Talked with no newspaper men? A. No sir.

Q. Haven't seen any newspaper men? A. I seen a lot of them, but never talked to them.

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Q. How do you know they were newspaper men if you didn't talk to them? A. I seen them on the street.

Q. Didn't talk to them? A. No sir.

Q. How do you know they were newspaper men? A. I seen them carrying papers. They were newspaper men.

Q. You talked to no newspaper reporters about this matter? A. No sir.

Q. None of them asked you what your knowledge was of this case? A. No sir.

Q. Did Smith ever attempt to arrest you after this thing happened as you allege? A. No sir.

Q. He didn't? A. No sir.

Q. Didn't make any arrest? A. No sir. He hit me once with a club, that's all.

Q. What did he hit you with a club for? A. I don't know. He told me to keep off the corner. I was going to night school and had my books under my arm and I stood there talking to Nickey Klein and here comes Lee and we walks away from him.

Q. When was that he hit you with a club? A. I don't know what day it was on, but we walked up Eleventh Street, and when we was going down he come down and he hit me with a club on the finger.

Q. How long was that after you say he attempted to ravish you? A. About a month or two.

Q. Well, he struck you with a club, did he? A. Yes.

Q. Where did he hit you? A. On the finger.

Q. Was it before you told that Smith had attempted to do this thing to you? A. No sir.

Q. When did you tell it? A. I told it when the boys told the Captain that I knew something about it, and I had to go up to the police station.

Q. When was it the boys told the Captain you knew something about it? A. When the Captain first heard about it.

Q. Well, how long was that after you said the thing happened? A. I don't know, sir.

Q. Two or three months? A. I don't know when he

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got reported, but it was two or three months when he hit me with that club.

Q. Well, it was two or three months, you say, after he attempted to do this thing with you that he hit you with the club? A. Yes.

Q. And you were with some other boy? A. Yes sir.

Q. Well, when was it that you went and told that this fellow had tried to do something with you? A. When?

Q. After he hit you? A. I didn't tell nobody then. I just went up to the police station and told the Captain that Smith had hit me with his club.

Q. Now about how long after you say that Smith had attempted to do something to you was it that you told the Captain, as near as you can recollect? About how many months?

A. About six months afterwards.

Q. About six months after this thing happened then you told the Captain? A. Yes sir.

Q. Now you say in the mean time Smith had hit you with a club? A. In the evening.

Q. Was it the same night you told the Captain?

A. He hit me first, then I told the Captain.

Q. How long after he hit you before you told the Captain? A. About twenty minutes.

Q. Now what did Smith hit you for? A. Because I wouldn't let him do it again I suppose.

Q. Did he ask you to let him do it again? A. I never let him get so close upon me to reach for me, nothing like that

Q. He didn't say anything to you, just hit you with a club, about six months after this thing happened?

A. Yes sir.

Q. Did he try to arrest you? A. No sir, but if he could put a false charge against me I suppose he would a done it.

Q. You run, did you? A. Yes sir.

Q. And he didn't catch you? A. No sir.

Q. How many other boys run with you? A. Only one that night. We didn't run, we walked.

Q. Now why did you and the other boy run? A. Because Lee told me to keep off the corner, and I stopped to talk to him, and then when I saw Lee coming I thought he would arrest me, something like that.

Q. As soon as you saw him coming you run? A. We didn't run, we walked.

Q. You got out of his way? A. Yes sir.

Q. Isn't it true that you run every time you saw Lee coming around there? A. After that I did.

Q. Where were you six months after Lee attempted to do this thing with you; where were you when Lee came up and you run, when he struck you with his club? A. Tenth and Madison.

Q. That was on Lee's beat, wasn't it? A. Yes sir.

Q. Lee was there every night? A. I suppose he was.

Q. And you were there every night with a large number of boys? A. No, I wasn't there every night.

Q. Well, how often? A. Three nights out of the week I was there .

Q. Did you run every night Lee came? A. Not at first. When he attempted to hit me with the club then I run..

Q. Did you run before that? A. No sir.

Q. You said you thought he was going to arrest you that night? A. Yes sir.

Q. And you run? A. Yes.

Q. Then you went up and told the Captain that Lee had done something to you six months before? A. No sir.

Q. How long before? A. I didn't say nothing about that. I just told him he hit me with a club.

Q. Why didn't you tell the Captain about what Lee had

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done to you six months before? A. I didn't think of it then.

Q. When did you first think of telling the Captain what Lee had done to you? A. I was coming home from work and some boys says to the Sergeant: "There's a boy that knows something about it."

Q. How long was that after this thing happened to you?

A. About four or five months, I guess.

Q. Then it was you went in and told the Captain? A. Yes.

Q. Was that after Lee had been suspended? A. No sir, that was before he got suspended.

Q. Was he on the police force at that time? A. What time?

Q. At the time you went and told the Captain? A. Yes.

Q. Now at the time Lee hit you he was on the police force, was he? A. Yes sir.

Q. Any other officer with Lee at that time? A. No sir.

Q. Now young man, you say that you never had any talk with anybody? A. No sir.

Q. Anybody offer you five dollars? A. No sir.

Q. To swear against Lee Smith? A. No sir.

Q. Did you tell any police officer that you were offered five dollars? A. No sir.

Q. To testify against Lee Smith? A. No sir.

Q. Didn't you tell Officer Prosser that you were offered five dollars? A. No sir.

Q. You didn't tell Officer Prosser? A. No sir. How it was with the five dollars, Lee asked me if I would go for him. He knew I was going against him then, and he come up and he asked me if I would go for him and tell the jury that some reporters offered me five dollars and some men wanted to get me drunk on beer.

Q. Well, Lee asked you if any reporter offered you five dollars? A. Yes.

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Q. What did you tell Lee? A. I told him no.

Q. Did you tell him that any reporter gave you any beer?

A. No sir. He asked me, he says: "Will you go for me? Tell the jury next time you go to court or anything"-he says: "You tell the jury that this is a made up job," he says;" that some reporters offered you five dollars and that some club fellows says they will give you some beer."

Q. Did any club fellows give you any beer? A. No sir.

Q. Did Lee ever give you any? A. No sir, I don't want none of his beer.

Q. And Lee didn't offer you any money, did he? A. No sir, I didn't want any.

Q. But he asked you if a reporter didn't offer you five dollars? A. No sir, he says I should tell the jury, when I go to court I should say that a reporter offered me five dollars---I should say that.

Q. Did you tell Lee that your mother wanted to see him?

A. No sir.

Q. Do you know whether your mother went onto Lee's beat to see him? A. No sir.

Q. You had no conversation with your mother in relation to that? A. No sir.

Q. Did you hear any conversation between your mother and Lee Smith? A. No sir.

Q. Did you see them together at any time? A. No sir.

Q. Never saw him with your mother? A. No sir.

Q. At no time? A. No sir.

Q. Either since or before? A. No sir.

Q. You never saw Lee Smith and your mother together?

A. No sir.

Q. I forgot to ask you what night of the week this was when this alleged attempt was made on you? A. I don't remember; I didn't keep track of it.

Q. Was it Monday night? A. I don't know, I don't re-

member it, it was so long ago.

Q. Was it Sunday night? A. I tell you I don't remember it, it was so long ago.

Q. You couldn't tell whether it was Monday or Sunday?

A. No sir.

Q. Could you tell whether it was a dark night or a light, bright night? A. I think I can.

Q. Well, what was it? A. It was a kind of a bright light.

Q. Were there any gas lights or electric lights in the neighborhood? A. Yes sir, one right at the corner.

Q. And all you know, so far as the weather is concerned, is that the officer had an overcoat on? A. Yes sir, it was a light--it was a thin one, any way; it was a summer coat.

Q. When did you leave the Stamping Company? A. About a month after this happened.

Q. A month after or a month before? A. A month after.

Q. Were you discharged from the company? A. I didn't get discharged.

Q. Why did you leave? A. Because of the acid, I was working in acid, and I didn't want to work in acid.

Q. Then you quit of your own accord? A. Yes sir.

Q. You say you can not fix this time? A. Sir?

You cannot fix the time when you say this thing happened?

A. No sir.

Q. You don't know whether it was five months or six months before it was reported to the police? A. No sir, I can't exactly tell.

Q. You don't know whether it was in the winter or the spring of the year? A. Oh, I know that, I know it wasn't in winter.

Q. You know it wasn't in winter? A. It wasn't in winter.

Q. When was it, last winter or last spring. This is the winter of 1896. Now was it last spring--last year--or last winter--this winter a year ago? A. It was in the summer time, I tell you.

Q. Well, but you say he had his overcoat on? A. Well, he had his light coat on, I know; it was kind of a thin one; I know it was his overcoat.

Q. He had a kind of a thin coat on? A. Yes.

Q. Well, was it the regulation uniform coat? A. Sir?

Q. Was it the regulation coat worn by police officers?

A. Yes sir.

Q. Well, you know they don't wear any light coat, do they, my boy? A. No, kind o'thin.

Q. They wear a blue coat, do they not? A. Yes.

Q. Well, was this the regular blue coat? A. Yes sir.

Q. The regular coat that police officers wear? A. Yes sir.

Q. Did it have the double row of brass buttons on it?

A. Yes sir.

Q. The double row? A. Had two rows, one on each side--one row on each side.

Q. Now you couldn't tell whether he had his belt on with the club around it--you know how these policemen wear that? A. Yes.

Q. You couldn't tell whether he had that on or not, could you? A. No sir.

Q. And you don't know where his club was, but you saw him have the club? A. Yes sir.

Q. You don't know where he got that from? A. No sir.

Q. And you say he didn't take his overcoat off?

A. No sir.

Q. When he laid you down on the board did he unbutton his overcoat? A. Not as I seen him, I know he unbuttoned

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his pants.

Q. You can't tell whether he unbuttoned his overcoat or not? A. No sir, but he unbuttoned his pants.

Q. Do you know whether he unbuttoned his belt that he had up here (indicating); do you know whether he unbuttoned that and threw it down? A. I know he was unbuttoning something in front of him, I don't know what it was, it was kind o'dark.

Q. Now the other boy you say was standing by--how close was the other boy to you, as close as from you to that gentleman there, the one sitting writing there (3 or 4 feet)?

A. He was about that close.

Q. Did he stay there all the time? A. Yes sir.

Q. Did you and he leave together? A. No sir.

Q. Who left first? A. Me.

Q. Did you leave him there? A. Yes.

Q. Left this boy there? A. Yes sir.

Q. Did you holler when he put you down on the board?

A. Yes sir.

Q. What did the other boy do? A. Sir?

Q. What did the other boy do, anything? A. No sir, he stood there.

Q. Then Lee let you up--he had you down about a minute?

A. About two minutes I suppose.

Q. About two you think now? A. Yes sir.

Q. First you said you thought it was a minute? A. About a minute or two I said.

Q. Well, from one to two minutes? A. Yes sir.

Q. You know about what a minute is? A. Yes sir.

Q. And the other boy stood there? A. Yes sir.

Q. Then you got up, and did you run or walk away?

A. I run.

Q. Then did you see what became of the other boy?

A. No sir.

Q. When did you next see him? A. I didn't see him since about a week or two after.

Q. The night that you told the Captain that Lee Smith did this thing to you who took you to the station house that night? A. I was just turning the station house and the Sergeant was coming in with a few more fellows.

Q. Did Lee Smith take you there? A. No sir.

Q. Did Lee Smith take you into the station house and tell the Captain that you were a little thief?

Latter part of question objected to.

Objection sustained.

Q. Then I will ask you this question: When you were in the station house didn't Lee Smith say to the Captain: "This boy is a little thief." And didn't you then say: "Captain, this is the man that tried to do something to me six or eight months ago?" A. No sir.

Q. Any such conversation occur? A. No sir.

Q. Now at the time and place that Lee Smith took you by the arm and the other boy and carried you into the lumber yard, how far were you from that engine house? A. Engine house?

Q. Yes? A. About a block away.

Q. Did you see any of the firemen at the time? A. No sir.

Q. How far were you from the engine house when Smith caught a hold of you? A. I told you a block away.

Q. You were a block away from that engine house? A. Yes sir.

Q. That engine house, you know where that is? A. Yes sir 26's engine house.

Q. Eh? A. The only engine house I know around there that I know of is the 26's.

53. Q. Well, you know where the engine house is, what street it's on? A. On Second and Madison.

Q. Now where were you at the time Lee Smith caught you

by the arm? A. A block away from it.

Q. On what street? A. On Clinton.

Q. Clinton and what? A. Right straight across from the engine house.

Q. Clinton and right across from the engine house?

A. Yes sir.

Q. Clinton and Second? A. Yes sir, I suppose so.

Q. Right across from the engine house? A. Yes sir.

Q. You didn't see any firemen at all? A. No sir, because the nine o'clock bells was ringing then and the firemen had to be there I suppose.

Q. You didn't holler at that time when he first took a hold of you? A. Yes, I told him to leave me loose.

Q. Did you holler loud enough for the firemen to hear you? A. Yes.

Q. But no firemen came up? A. No, they was busy tending to their horses.

Q. The nine o'clock bells were ringing? A. Just ringing.

Q. If the firemen hollered you didn't hear them? A. No sir.

Q. You didn't see any firemen around? A. No sir.

Q. Did you meet anybody whilst he was taking you to this place two blocks away--the lumber yard? A. No sir.

Q. Nobody in the street? A. No sir.

Q. Did you go along the sidewalk? A. No sir.

Q. How did you go? A. In the street.

Q. Out in the middle of the street? A. Yes sir.

Q. Walked from the sidewalk into the street and went along the middle of the street? A. Yes sir.

Q. And for these one or two blocks you saw no one at all?

A. No sir.

Q. Houses on each side of the street there? A. Sir?

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Q. Any houses? A. There's a foundry.

Q. Nothing else but the foundry? A. There's a foundry and another lumber yard across the street.

Q. There is no dwelling house there, is there? A. Sir?

Q. Any dwelling houses--houses that people live in?

A. There's one on Clinton Street, right at the corner.

Q. Well, along the one or two blocks that he led you was there any house on those streets? A. No sir.

Q. Now you passed Second Street; there was a dwelling house there, was there not? A. Where he started to take me there is one house, when he went a little piece there aint no more houses--there is only one house at the corner.

Q. Then you don't know of any houses along there that were inhabited by people? A. There's only one house there from Broadway to Second Street.

Q. Only one house? A. Yes, where the electric light is--there is only one house.

Q. Had you passed by that house? A. Yes sir, we had passed it already.

Q. That was across the street from it? A. Yes, that was across the street from it.

REDIRECT-EXAMINATION BY MR.BISHOP,

Q. You say you had been in the habit of playing with some boys up on the corner near where you lived in the evening?

A. Yes sir.

Q. There were three nights in the week that you went to night school? A. Yes sir.

Q. What school? A. Webster School.

Q. And the other three nights in the week you used to play out there in the evening? A. Yes sir.

Q. With boys about your own size? A. Yes and some a little bigger and some ~~xxxxxxx~~ smaller.

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Q. You played games, you say, like boys play---like Old Man's Out, or something else? A. Yes sir.

Q. And you say that Smith had never ordered you away from that corner until a short time before this affair?

A. Yes sir.

Q. And then when he told you not to play on that corner; that you were making too much noise, you all went down to Second and Clinton to play? A. Yes sir.

Q. Were there any residences on the corner of Second and Clinton where you played? A. Yes.

Q. How many? A. You mean houses?

Q. Yes, houses that people lived in? A. There's only one house that I know of, and that's just across the street.

Q. Now this place where you went to play is the place where there wasn't any people living, except this one house?

A. Yes sir.

Q. Did you play on the corner where this one house was or did you play across the street from it? A. Across the street from it.

Q. Did you play on ~~the~~ vacant lot across the street or along the railroad track? A. There's a railroad track, we played along there.

Q. Railroad track runs down Second Street? A. Yes.

Q. Do you know whether that is the Burlington track or not? A. No sir.

Q. You don't know the name of the track? A. No sir.

Q. Then Smith came down there to that corner? A. Yes sir.

Q. Did he ever order you away from that corner?

A. No sir.

Q. You say you didn't play down there any more after this night that Smith took you into the lumber yard?

A. No sir.

Q. Do you know what Sergeant it was that took you to

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the Captain's office? A. No sir, I don't know his name.

Q. But he is a Sergeant of Police? A. Yes sir.

Q. Where was it that you met him? A. About from here to you away from the station door (about 15 feet).

Q. Did he take you into the Captain's office? A. Yes sir.

Q. What Captain of Police was it, do you know?

A. No sir.

Q. Don't know his name? A. No sir.

Q. Had you ever been in the station house before?

A. I had been in the station house twice as I know of-- once when the Sergeant brought me in and once when he hit me with the club.

Q. Well, I say had you ever been in the station house except on these two occasions when you went in there with the Sergeant and when you went to make complaint against Smith for hitting you with the club? A. No sir.

Q. And you didn't know the Captain's name at all?

A. No sir.

Q. And you didn't know the Sergeant's name? A. No sir.

Q. Did you go in with the Sergeant ~~xxxxxxx~~ to tell the Captain about Smith before or after the time he hit you with the club? A. It was after.

Q. Afterwards? A. Yes sir.

Q. Then the first time you went there was when you went in to complain to the Captain that Smith had struck you with his club? A. Yes sir.

Q. And you were in there how long? A. Sir?

Q. How long were you in there at that time? A. In the station?

Q. Yes? A. I believe it was about from six to about half past six or seven o'clock. We had to go and get them other boys--some other boys.

Q. I am not speaking of the time the Sergeant was there,

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but the time you went to complain of Smith for having struck you with the club? A. That was about a quarter to seven or half past six.

Q. I say how long were you in the station at that time?

A. About ten minutes--ten or five minutes.

Q. Then how long was it after that before you went in there with the Sergeant to tell about what Smith had done in the lumber yard, about how long was it after? A. About three months I suppose, I don't know exactly.

Q. Now you say you had never complained to any police officer, you never had spoken to any citizen or newspaper reporter about it? A. No sir, I didn't.

Q. And the first you knew of it was that the Sergeant told you he wanted you to go to the Captain and tell him all you knew about Smith? A. Yes sir.

Q. Now who was present in the station when you made the statement about Smith, do you remember? A. No sir, I don't know who it was; it was the Captain I know; I just know it was the Captain.

Q. Did he ask you questions? A. He just asked me what did Smith do to me and things like that.

Q. Well, then, it was in answer to the questions that he asked you that you made the statement? A. Yes sir, I made the statement.

Q. And the Sergeant was present at the time, was he?

A. Yes sir.

Q. You say you left the Stamping Company because you didn't want to work with the acids? A. Yes sir.

Q. And how long after you left the Stamping Company was it that you went into the employment of the Knife Company?

A. About a week after, a week or two.

Q. Have you been there ever since? A. Yes sir.

Q. Did Smith ever undertake to arrest you at any time?

A. No sir.

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Q. Did he ever make any complaint against you or threaten to arrest you until this time when you were in the lumber yard? A. Yes, he says he will arrest me if I wouldn't do what he says.

Q. I say before that did he ever threaten to arrest you or undertake to arrest you or make any charge against you of any kind? A. Not as I know of, sir, he didn't say nothing about it to me.

Q. You say that after you had made the complaint against him that you met him and he told you that if you came before the jury to tell the jury that you had been offered five dollars by a newspaper man to tell on him? A. Yes sir, he says I shouldn't go against him, I should go for him. He says I should say that the newspaper man offered me five dollars, and he would offer me some beer.

Q. Where was it you met Smith at that time? A. We was playing on Madison Street and he called another fellow down to tell me to come down, that ^{somebody} ~~Smith~~ wanted to see me, and I went down there and here it was Smith, and Smith told me.

Q. When you went down you didn't know it was Smith?

A. No sir.

Q. When you went down there was he in uniform or in citizens clothes? A. He was in citizens clothes.

Q. Was that after he ceased to be a police officer?

A. Yes sir.

Q. And how long ago was that, do you know? A. About a week or two after he got reported.

Q. Was that before you had gone before the Grand Jury?

A. Yes sir.

Q. Since you went before the Grand Jury have you had any conversation with him at all or seen him? A. Oh, I seen him lots of times.. He come around the corner, and he made a motion to Prosser, to get me, I suppose, I don't know.

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Q. Now he came around there afterwards in citizens dress with this man Prosser? A. Yes sir.

Q. Do you know Prosser? A. I know him by when he come up there, I just know him in that way.

Q. He is not on the police force now, is he? A. No sir.

Q. Were he and Smith together often up there? A. Yes sir.

Q. Did you ever ~~xxx~~ have a talk with Prosser about it?

A. No sir.

Q. Did Prosser ever offer to talk to you about it?

A. No sir.

ED.GILMORE,

Being duly sworn on behalf of the State testified as follows:

DIRECT-EXAMINATION BY MR.BISHOP,

Q. What is your name? A. Ed.Gilmore.

Q. Where do you live, Ed? A. 821 Chambers Street.

Q. Do you work for a living? A. Yes sir.

Q. Where do you work? A. Friedman Brothers & Schaeffer.

Q. How long have you been with them? A. About four months.

Q. Where were you working before? A. Hamilton-Browns.

Q. Hamilton-Brown Shoe Company? A. Yes sir.

Q. How old are you, Ed? A. Sixteen years old.

Q. Where do you live? A. 821 Chambers Street.

Q. Were you living there all last year, the spring of last year? A. Yes sir.

Q. Do you know Henry Spreen? A. Yes sir.

Q. How long have you known Henry? A. About seven or eight years.

Q. Do you know the defendant, Lee Smith? A. Yes sir.

Q. Did you know him when he was walking a beat up there as a police officer? A. Yes sir.

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Q. I will ask you to state if you went with Lee Smith and Henry Spreen to a lumber yard? A. He told us to come down there, me and Spreen, we didn't want to go, he told us to come anyhow.

Q. Now where were you and Spreen at the time the police officer said that to you? A. Second and Clinton.

Q. What were you doing there? A. Playing.

Q. Do you remember what you were playing? A. Foot ball and Sixty Out.

Q. Well now, when the officer told you he wanted you to come down there, and you said you didn't want to go, just go on and tell all that happened? A. We didn't want to go, he pulled us along and we had to go; told us to come down, we didn't want to go, but he pulled us along anyhow. Only went down there a couple o'nights to play.

Q. Well, go on, tell all that happened; just tell these gentlemen here all that happened. How far did you go with him? A. About a block or two.

Q. Where did you go? A. Down Main Street I believe.

Q. Well, did you go into a house? A. No sir.

Q. Where did you go? A. Lumber yard.

Q. Well now, what occurred after you got in the lumber yard? A. He told us to get down and take down our pants, that's all.

Q. Well, then what? Go on, Ed, tell all about it?

A. He laid his club down and got on us.

Q. He laid his club down and then what? A. Got on top of Spreen and then me.

Q. Got on top of Spreen and then you? A. Yes sir.

Q. Now where was Spreen when he got on top of him?

A. In the lumber yard.

Q. Yes, but whereabouts in the lumber yard? A. Where I was.

Q. Well, where were you in the lumber yard? Go on, tell all that happened now, don't be bashful? A. On a lumber pile.

Q. Well, did he do anything to Spreen's clothes or not?

A. His what?

Q. Did he do anything with Spreen's clothes? A. No sir, not as I know of.

Q. Well now, what did he do when he got on top of Spreen, just tell all about it now if you saw anything there? Was this on the ground or on a lumber pile? A. On a little low lumber pile.

Q. Can you state whether or not Smith opened his clothes? A. Sir?

Q. Do you know whether or not Smith opened his clothes?

A. Yes sir.

Q. What part of his clothes did he open? A. Front of them, front of his pants.

Q. Did you see his private parts? A. Yes sir.

Q. What did he do with them? A. Had Spreen down and got on top of Spreen.

Q. How was Spreen lying? A. On his face.

Q. What did Smith say, if he said anything, while this was going on? A. He pulled us by the arm and he told us to come down there.

Q. No, but I say after you got down to the lumber yard what did he say, if anything? A. Told us to get down on the lumber pile.

Q. Did he say anything else? A. That's all.

Q. How were Spreen's clothes at the time that Smith got on him? Did he have his pants up or down? A. Down.

Q. How did they get down? A. On his knees.

Q. No, but how did his clothes get down? A. Pulled them down.

Q. Who did? A. Smith.

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Q. What became of Spreen after they got through?

A. We went away.

Q. Did Smith do anything to you at the same time while you were there? A. Yes sir.

Q. The same thing he did to Spreen? A. Yes sir.

Q. What time of evening was it, do you know? A. About half past seven or quarter to eight.

Q. Whose lumber yard is that, do you know? A. No sir, I don't know whose it is.

CROSS-EXAMINATION BY JUDGE CLAIBORNE,

Q. What is your name? A. Ed. Gilmore.

Q. When were you subpoenaed in this case? A. I don't know, I went up to the station, they didn't say nothing to me.

Q. When were you told to come to court? A. Didn't tell me at all.

Q. How did you come here? A. They sent for me to-day up to Friedman Brothers.

Q. When did you get here to the court room? A. About a quarter after three.

Q. To-day? A. Yes sir.

JUDGE CLAIBORNE: If the Court please: I move to strike out this testimony, for the reason that this witness's name does not appear upon this indictment, and that we have made no preparation whatever to rebut the testimony of this witness. We know nothing about this witness and could not under any circumstances impeach his testimony for veracity, because we did not believe there was such a witness in existence until this very moment.

THE COURT: He has testified, though, to the same alleged occurrence that the preceding witness testified to.

JUDGE CLAIBORNE: Yes, sir.

THE COURT: The motion to strike out is overruled.

JUDGE CLAIBORNE: Very well, sir, we take our exception.

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Q. What is your name? A. Ed. Gilmore.

Q. How long have you been here? A. About forty minutes now.

Q. Did you hear the testimony of this last witness upon the stand, this boy? A. Not all of it.

Q. You heard a part of it? A. Yes sir.

Q. For the last forty minutes? A. Yes sir.

Q. Were you served with a subpoena to come here to-day?

A. I was just telephoned up to Friedman's to come down here.

Q. Who telephoned you? A. I don't know.

Q. Who told you to come here? A. The foreman up there.

Q. Did the police officer come to your place? A. I don't know, I was just telephoned, the foreman came upstairs and told me.

Q. To come here to court? A. Yes sir.

Q. Have you been living here in this city ever since this thing happened? A. Yes sir.

Q. And you were never subpoenaed as a witness? A. No sir.

Q. Didn't appear before the Grand Jury? A. No sir.

Q. Did you ever tell anyone that you didn't know anything about this case? A. No sir, never told nobody nothing about it.

Q. Did you ever tell any witness that you would not testify in this case? A. No sir.

Q. Did you ever tell any witness for the State that if the State brought you here that you would not testify?

A. No sir.

Q. Did you ever tell any witness that if you were brought here for the defendant that you would not testify?

A. No sir.

Q. Have you ever had any conversation with anyone as to

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what your testimony would be? A. No sir.

Q. Did you mention to anyone that if you were subpoenaed as a witness that you would testify against the party that brought you here? A. No sir.

Q. Eh? A. I don't know what you said last.

Q. Did you state to any person that if the defendant had you subpoenaed as a witness that you would testify against him? A. No sir.

Q. Did you say to anyone that if the State had you subpoenaed as a witness you would testify against them? A. No sir.

Q. You had no such conversations? A. No sir.

Q. When was this that you say Smith took you and this boy in that lumber yard? A. I guess it's about eight months ago, or nine months.

Q. Eight months ago? A. Yes sir.

Q. What month of the year was it in? A. I don't know.

Q. Was it in the summer? A. Yes sir.

Q. In the summer? A. It was fall.

Q. Eh? It was about fall I believe.

Q. What fall, last fall or last fall a year ago? This is now January. Now was it last fall or last fall a year ago?

A. I guess it was in about the summer.

Q. Eh? A. It wasn't only about eight or nine months ago, about summer.

Q. Last summer? A. Yes sir.

Q. In hot weather? A. Yes sir.

Q. Did Smith have his uniform on? A. Yes sir.

Q. Did you know Smith at that time? A. Yes sir.

Q. How long had you known him? A. About a week or two before.

Q. Only a week or two? A. Yes sir.

Q. Had you ever had any conversation with him? A. No sir.

Q. Never talked with him? A. No sir.

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Q. You had seen him before this night, had you?

A. Yes sir, he used to be on that beat.

Q. Well, how long had you seen him before this night?

A. About one or two weeks.

Q. One or two weeks? A. Yes.

Q. Had you ever had any conversation with him?

A. No sir.

Q. Had you ever had any talk with him? A. No sir.

Q. Had he ever said anything to you about doing anything to you? A. No sir.

Q. Well, then, you were an entire stranger to Smith? ...and didn't know him until that night? A. I saw him before, but I didn't know what his name was.

Q. And did you know his name that night was Lee Smith?

A. They told me.

Q. Did he tell you that night his name was Lee Smith?

A. He didn't tell me, but I heard his name was Lee Smith.

Q. Did you hear it before he took you into the lumber yard? A. No sir.

Q. Afterwards? A. Yes.

Q. Now where were you at when Lee Smith came up to you?

A. Second and Clinton.

Q. What were you doing there? A. Playing.

Q. Was that Smith's beat? Was he on duty there at that time? A. That was his beat, yes.

Q. Was that his beat? A. Yes sir.

Q. Had you ever seen him there before? A. I only went down there, played there for about four nights, five nights.

Q. Well, had you ever seen him there before that night?

A. Saw him come around there.

Q. Now how many of you boys were engaged in playing there when Smith came up? A. About twelve or fifteen.

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Q. Now did he take you and the other boy out of the crowd? A. Yes sir.

Q. What did he say to you when he came up? A. Came up and got a hold of us and told us to come along.

Q. What did the other boys do? A. They stood there.

Q. Were you all together? A. Yes.

Q. Twelve of you, or fourteen? A. Yes sir, we was playing there when he came.

Q. They were all playing? A. Yes sir.

Q. Who was next to you when Smith came up? A. Don't know.

Q. Eh? A. Don't know that.

Q. How far were these other ten or twelve boys from you when Smith came up? A. Was right up with us.

Q. All right together? A. Yes sir.

Q. Did he catch you by the arm? A. Yes sir.

Q. And did he catch the Spreen boy also? A. Yes sir.

Q. At the same time? A. Yes sir.

Q. And then what did he do with you? A. Told us to come down, he had a hold of us and told us to come down in the lumber yard.

Q. What became of the other boys? A. They stayed there, I don't know where they went..

Q. Did they all remain there? A. Kept on playing.

Q. Did you boys say anything? A. No sir.

Q. Did you holler? A. No sir.

Q. Did you call for help? A. No sir.

Q. The Fire Department have an engine house across the street there, have they not? A. That's Madison Street, a block from it.

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Q. Then how far did he march you before he got you to the lumber yard? A. About two blocks.

Q. Take you on the sidewalk or in the street?

A. In the street.

Q. You heard the other boy testify to that fact, didn't you, that he took you right down the middle of the street? A. Yes.

Q. Now did you see anybody? A. Going down there?

Q. Yes? A. No sir.

Q. Did you make any noise? A. No sir.

Q. Walked along with him? A. Yes.

Q. Which arm did he have you by? A. This arm (right).

Q. The right arm? A. Yes.

Q. And he had the other boy by the left arm? A. Yes.

Q. Where did he have his club? A. Under his arm.

Q. How was he holding his club, what held it? A. His arm.

Q. You mean right under his arm this way (indicating)?

A. Yes sir.

Q. He didn't have any belt on? A. No, that was at night time.

Q. He didn't have any belt, policemen don't wear any belt at night time? A. No, he had a club in his hand.

Q. But you say he had it under his arm? A. He put it under his arm.

Q. Did you pull back? A. Tried to get away.

Q. Did the other boy try to get away? A. Yes.

Q. Did he make any noise? A. No sir.

Q. Not a word was said? A. No sir.

Q. Then he led you down two blocks to the lumber yard?

A. Yes.

Q. Then took you in the lumber yard? A. Yes.

Q. Then what did he do to you? A. Told us to get down on a lumber pile.

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Q. What did he say he wanted to do? A. Told us to pull down our pants, and we tried to get away, but we couldn't get away.

Q. Told you to pull down your pants? A. Yes sir.

Q. Well, did the Spreen boy pull his pants down?

A. No sir.

Q. He did not? A. No sir.

Q. Did you pull your pants down? A. I didn't want to pull them, but he made me.

Q. Well, did he make you pull them down? A. Yes sir.

Q. Now didn't Smith pull them down himself? A. Yes, he pulled Spreen's down.

Q. Then he made you pull yours down? A. Yes.

Q. Now after the other boy pulled his pants down what did Smith do? A. Got on him.

Q. What did you do then? A. Stood there.

Q. Why didn't you run, he didn't have a hold of you, did he? A. No sir.

Q. How far were you from him, how many feet? A. About three feet.

Q. You stood there? A. Yes sir.

Q. Didn't try to get away? A. Tried to get away when was going down.

Q. But I mean after he got the Spreen boy down? A. No.

Q. ~~When~~ After the Spreen boy pulled his breeches down what did Smith do? A. Got on him.

Q. What did he do then, eh? Do you know? I don't want you to tell unless you know. Did he do anything? A. Yes sir.

Q. What did he do, if you know? Do you know? (No answer)

Q. What did the Spreen boy do after he got up?

A. Pulled up his pants and walked off.

Q. What did you do? A. Made me git down there.

Q. What did he do after you got down? A. Got on me.

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Q. What did he do to you? Well, can you tell what he done to you? (No answer)

Q. Well, what did he do after he made you pull your breeches down? A. He opened his in front.

Q. Do what? A. He opened his in front.

Q. Well, then what did he do? A. He got down too.

Q. Why, he had opened his breeches already, hadn't he, when he had Spreen down? A. Yes.

Q. Then did he open them again? A. No sir.

Q. Did you see his person? A. Yes sir.

Q. What did he do with it? Do anything to you with it?

A. Yes sir.

Q. Well, what did he do? (No answer)

Q. BY THE COURT: Just state in any way that you see fit what he did with his person to you after he got on top of you? You need have no delicacy or embarrassment about it. Just state in as short a way as you can? (No answer)

Q. Well, can you tell the jury, now, what he done after he got on top of you? Did the other boy stay there whilst he was on top of you? A. Yes sir, then me and him walked off.

Q. He stayed there? A. And me and him walked off.

Q. Then you walked off together? A. Yes sir.

Q. Then what became of Smith? A. I don't know where he went. I went home.

Q. Well, did Smith stay there until you and the other boy walked off? A. He walked up with us until we got up to Broadway and I went home.

Q. He walked with you up to Broadway? A. And I went home.

Q. Walked with both of you? A. Spreen lives a block further than I do.

Q. Well, did you and Smith and Spreen all leave the lumber yard together? A. Yes.

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Q. And you all walked up town? A. Yes.

Q. Did you stop and have any conversation, have any talk?
A. No sir.

Q. Did you ask Smith what he wanted to do this thing to you for? A. No sir.

Q. Did he give you any money? A. No sir.

Q. Did he offer you any money? A. No sir.

Q. Did he have any conversation with you at all about what he was going to do to you? A. No sir.

Q. He just took you right off the public streets from twelve or fifteen boys and took you into the lumber yard?
A. Yes.

Q. And made you pull your breeches down? A. Yes sir.

Q. And never said a word to you? A. No sir.

Q. Didn't tell you what he was going to do? A. No sir.

Q. Eh? A. No sir.

Q. Didn't say anything about what he was going to do to you? A. No sir.

Q. Did you ask him what he was going to do? A. No sir.

Q. You didn't think he was going to take you to the calaboose, did you, eh? A. No sir.

Q. There is no calaboose in that part of town, is there, down there where this lumber yard is? A. No sir.

Q. Didn't tell you that you were under arrest? A. No sir.

Q. You never had any trouble with Smith? A. No sir.

Q. He never arrested you? A. No, I never was arrested.

Q. Eh? A. Never was arrested.

Q. Well, you never had any trouble with Smith? A. No sir.

Q. Either before or since this time? A. No sir.

Q. Now was this cold or warm weather? A. It was about summer time.

Q. Did he have his overcoat on? A. He had a long coat

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Q. Well, you know a policeman's overcoat. Did he have his overcoat on? A. Yes sir.

Q. He had his overcoat on? A. Yes sir.

Q. Was it buttoned up? A. Yes.

Q. Did he unbutton it? A. Yes.

Q. Take it off? A. No, he never took it off.

Q. Just simply unbuttoned his overcoat? A. Yes.

Q. But didn't take it off? A. No sir.

Q. How high was this lumber pile that you were on?

A. About as high as this here platform (witness stand).

Q. What part of that yard was it in? A. About the middle

Q. Did you know what he was going to do to you when he took you into the lumber yard? A. No sir.

Q. You had never known Smith before? A. No sir.

Q. Only seen him about a week before that time?

A. About a week or two, yes.

Q. When he took you from these ten or twelve other boys did he say anything to the other boys? A. No sir.

Q. Did he say what he wanted with you? A. No sir.

Q. Any boys follow you to see what Smith was going to do with you? A. I don't know that.

Q. These other boys all as large as you are? A. Yes, some of them, some smaller.

Q. All nearly grown men, were they, like yourself?

A. Yes.

Q. Do you know them all? A. Yes.

Q. Can you give their names? A. Yes.

Q. Who are they? A. Spreen.

Q. Well, Spreen is the one that went with you, who are the boys that remained behind? A. And Majors---I don't know his first name, and Morgan, Taylors--two brothers of them

Q. Did they say anything at all when he was taking you away? A. No sir.

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Q. Did you call on these boys to help you when this

officer was taking you off? A. No sir.

Q. And you say this was between seven and eight o'clock?

A. Yes sir.

Q. Couldn't have been as late as nine? A. No sir, I was home --it was a quarter of nine when I got home.

Q. How far do you live from there? A. About five blocks

Q. And you got home by a quarter to nine? A. Yes sir.

Q. Then you know it was before nine o'clock when he took you out of this crowd of boys? A. Yes sir.

Q. Did you see anybody else on the street except these twelve or fourteen boys? A. Sir?

Q. See anybody else on the street? A. No sir.

Q. See anybody else passing up and down the street?

A. No sir.

Q. Any houses in that neighborhood? A. Yes.

Q. Occupied by people? A. Yes.

Q. See any light in them? A. Yes.

Q. You saw the houses lighted up, did you? A. There was one that was lighted up and one was for rent.

Q. Did you pass by the one that was lighted up? A. No sir.

Q. How close were you to it? A. Across the street.

Q. How ~~many~~ are the streets lighted there, by gas or electricity? A. Electricity.

Q. Big electric light there? A. Yes sir.

Q. Then where he captured you boys was right near that big electric light, was it? A. Yes sir.

Q. Took you right out from under that light? A. Yes sir

Q. Down to that lumber yard? A. Yes.

Q. Had you ever been in the lumber yard before?

A. No sir.

Q. You don't know whose lumber yard it is? A. No sir.

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Q. Now did you unbutton your pants or did Smith unbutton them? A. He took the suspenders down.

Q. Did you have a coat on? A. Yes sir.

Q. Well, how did he get your suspenders down? A. Took my coat off.

Q. Who took your coat off? A. He did.

Q. He took your coat off? A. Yes sir.

Q. Then he took your suspenders down? A. Yes sir.

Q. Then did you lay down? A. Yes sir.

Q. Then what did he do to you? A. He unbuttoned his pants and got on top of me.

Q. Well, did he put anything in you? A. Yes sir.

Q. What did he put in you, his person? A. Yes sir.

Q. Where did he put it, put it between your legs or in your behind? A. Behind.

Q. Go into you? A. Yes.

Q. Went into your body? A. No sir.

Q. It did not? A. No sir.

Q. What did he do? Did he try to put it in your body?
A. Yes sir.

Q. Where was Spreen then, standing by you? A. Yes sir.

Q. Did he take Spreen's coat off also? A. I don't think he had any coat on.

Q. Was he in his shirt sleeves? A. Yes sir.

Q. Had no coat on? A. I don't think he did.

Q. Now how long did he have Spreen down? A. About three minutes.

Q. How long did he have you down? A. A minute or two.

Q. Did he ~~wet~~ you, did he put anything on you? A. No sir.

Q. Didn't put nothing on you? A. No sir.

Q. You were perfectly dry? A. Yes sir.

Q. You think he had Spreen down about three minutes?

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A. Yes.

Q. Worked on him for about three minutes? A. Yes.

Q. Then you think he worked on you about a minute?

A. Minute or two, yes.

Q. And didn't wet you in any way? A. No sir.

Q. You are a sixteen-year-old boy? A. Yes sir.

Q. You know what I mean by wetting? A. Yes sir.

Q. You have had connection with girls, haven't you?

A. No sir.

Q. Never in your life? A. No sir.

Q. You don't know what it is then for a man that is having connection with somebody to wet 'em, do you? A. I know what it is.

Q. Well, did he wet you? A. No sir.

Q. Didn't put nothing on your backside? A. No sir.

Q. And you think that it took him about three minutes on Spreen and two minutes on you in that lumber yard?

A. Yes sir.

Q. Now can you give us any idea what month that was in, as near as you can? A. It must have been about September, sometime along there.

Q. September? A. Around there sometime.

Q. But he was arrested long before September, my young man. You mean September of year before last? Can you tell whether it was last summer or summer before last, last winter or winter before last? A. It was summer before last.

Q. You are certain it wasn't last summer? A. Or the first part of last summer.

Q. When did you first tell anybody about this? A. I didn't tell anybody about it.

Q. How did anybody find out that you knew anything about it? A. I don't know.

Q. Did you ever go to the police station? A. No sir.

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Q. Did you ever talk with Lee Smith about it?

A. No sir.

Q. Why, didn't you go to the police station the day after Spreen and those boys were there, with Pete Walsh?

A. Yes, the Captain wanted to see me there one night.

Q. Didn't you tell the Captain you didn't know anything about it? A. No sir, I told him the truth. The Captain says to Walsh I would come in and see him if I wanted to. He didn't say nothing to me, only asked me if he done it to me, and I said yes.

Q. Didn't you go in and see Smith? A. No sir.

Q. You never saw Lee Smith? A. Not in the station.

Q. You never talked to him since that night? A. I was up in the house and he called me down one night.

Q. How long ago was that? A. About three nights after that.

Q. After this thing happened? A. Yes.

Q. What did he call you down for? A. Wanted to see me about if I wouldn't go against him.

Q. Wouldn't go against him? A. Yes.

Q. That was three nights after this thing happened?

A. Yes sir.

Q. Well, that was along six or eight months before he was arrested, wasn't it? A. It was about six months---five months.

Q. Why would he ask you if you wouldn't go against him six months before anything was said about it? A. He wasn't arrested for about six months after. He come up and knocked at the door and told me to come downstairs, he wanted to see me.

REDIRECT-EXAMINATION BY MR.BISHOP,

Q. You say you were never called into court as a witness? A. No sir.

Y.S.

Q. And you never said anything to anybody about it except to the Captain at the time you were called up to the station? A. That's all.

Q. What time was it you got notice to come to court, was it before or after you had had your dinner? A. After dinner.

Q. After dinner to-day? A. Yes sir.

Q. The foreman told you you were wanted in court?
A. Yes sir.

Q. Did he tell you what for? A. No sir.

Q. Did you know what for? A. I didn't know what for, no; I kind o'imagined I did, though.

Q. You imagined what it was for? A. Yes sir.

Q. But you came because you got a telephone message through the foreman that you were wanted in court this afternoon? A. Yes sir.

Q. And you came right down here? A. Yes sir.

Q. You never had seen any attorney in the case about this matter before---you never had seen any lawyer in the case before about the matter? A. No sir.

Q. You never saw me until you were called by the sheriff a few moments ago? A. No sir.

Q. BY THE COURT: Can you tell about how many months ago it was that this occurred? A. About eight or nine months.

CHARLES MAJORS,

Being duly sworn on behalf of the State testified as follows:

DIRECT-EXAMINATION BY MR.BISHOP,

Q. What is your name? A. Charley Majors.

Q. How old are you, Charley? A. Thirteen.

Q. Where do you live? A. 2107 North Broadway.

Q. You live there with your parents? A. Yes sir.

Q. Your father and mother both living? A. Yes sir.

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Q. What does your father do? A. Paper hanger.

Q. And what do you do? A. Go to school.

Q. What school do you go to? A. Webster.

Q. Do you know Lee Smith? A. Yes sir.

Q. The police officer here--ex-officer? A. Yes sir.

Q. Did he walk the beat where you live? A. Yes sir.

Q. Do you know Henry Spreen? A. Yes sir.

Q. And Ed. Gilmore? A. I don't know him good.

Q. He doesn't live near you--Gilmore, he doesn't live near where you do? A. I don't know where he lives.

Q. How long have you known Henry Spreen, about how long?

A. About two months.

Q. I will ask you to state if this defendant, Lee Smith, at any time took any liberties with you?

JUDGE CLAIBORNE: If the Court please, we desire to object to the question, and ask that the jury be withdrawn, that we may present our objections.

(There being no objection, the Jury was withdrawn.)

(Question read.)

Objected to on the ground that it is incompetent, illegal and prejudicial; that this is the prosecuting witness in the three indictments that were quashed in this case charging the defendant with the same offense; that each constitutes a separate, distinct and complete offense within itself.

The objection was argued at some length and the Court took the matter under advisement until to-morrow morning. The Jury was then brought in.

At this point the Court cautioned the jury and adjourned until to-morrow morning at 10 o'clock.

So,

THURSDAY, JANUARY 23, 1896.

Court met pursuant to adjournment, present as on yesterday
Further proceedings in the case at bar were had as follows

THE COURT: The Court has made an investigation of the matter as fully as time would permit, and in view of the conflict of authorities upon the proposition, I am in very grave doubt as to whether or not such testimony would be competent. I recognize the hardship that would be imposed upon the defendant if he were required to meet two or more offenses when he is called upon by the indictment to meet only one. The disposition of the Court is not to enforce that rule of evidence unless the exception comes clearly within the meaning of the law. I do not think this case comes within that exception. Being in doubt about it, I will have to resolve that doubt in favor of the defendant and will sustain the objection to that testimony.

HERE THE STATE RESTED ITS CASE IN CHIEF.

The Defendant to sustain the issues upon his part introduced evidence as follows, to-wit:

HENRY RADELL,

Being duly sworn on behalf of the Defendant testified as follows:

DIRECT-EXAMINATION BY JUDGE CLAIBORNE.

Q. Will you please state your name? A. Henry Radell,

Q. Where do you live, Mr. Radell? A. 1501 Destrehan
Street.

Q. What is your business, Mr. Radell? A. Foreman Catlin Tobacco Company.

Q. Where is your place of business? A. Thirteenth and Chestnut.

Q. How long have you been connected with that institution? A. Twenty eight years.

Q. Do you know the defendant, Lee Smith? A. I do, sir.

Q. How long have you known him? A. To the best of my knowledge, about five or six years; I can't remember certain, five or six, may be seven.

Q. Do you know his parents? A. I know them for the last fifteen years and his grandfather for twenty.

Q. You have known his mother and father for fifteen years and his grandfather, you say, about twenty? A. Yes.

Q. You served in the army with him, did you not?

MR. BISHOP: I object to all this;

Objection sustained.

Q. Well, you have known the boy and you have known all of his people? A. Yes sir.

Q. Do you know his general reputation? A. As far as I know, it's good.

CROSS-EXAMINATION BY MR. BISHOP,

Q. Do you know it amongst the people that know Lee Smith? A. Yes sir.

Q. Is it good or bad? A. Good.

Q. What did you say your business was? A. Tobacconist, Foreman Catlin Tobacco Company.

Q. Are you there all day long? A. Yes sir.

Q. Every day? A. Every day.

Q. Where do you live? A. 1501 Destrehan. I am home
82 may be on an average a week a year.