false character testimony as to Nat Birchall and his fraudulently altered records reread. These are the same fraudulently altered records produced by Nat Birchall, the District Attorney's stenographer, of the two non-existent Grand Jury Hearings in the District Attorney's office in July 1957, that were admitted into evidence in spite of defendant's repeated objections (161-165)that the records were hearsay fraudulently altered typewritten copies of Nat Birchall's original hearsay stenographic notes; which original notes Nat Birchall testified were written in his own secret short hand code which no one could understand or read beside himself (197-198). Even with this admission the imp trial judge, W'm Sullivan, ordered the defendant to accept the veracity of the said hearsay fraudulently altered notes on the say so of Nat Birchall, the prosecution's witness and life long employee. The dishonest judge allowed these fraudulently altered hearsy notes of conversations of Edward Robinson, Jr. with detective Becker, Dr. Milton E. Robbins, J.D.C. Murray, Frank Gulotta and Fred Wirschning into evidence in spite of defendant's repeated objections, that these people would not be called to testify in reference to these fraudulently altered hearsay typewritten notes (161-165), The prosecution refused to call Edward Robinson, Jr., detective Becker, J.D.C. Murray and Frank Gulotta in reference to producing the prosecution's prima facie case and to substantiate Nat Birchall's hearsay notes.

Shortly after Mrs. Wirschning completely broke down during cross examination and admitted her sworn complaints were perjuries, defendant's cross examination of her was ordered stopped by the fop judge over defendant's objections and the judge and prosecution called Nat Birchall to testify. The dishonest, perjurous, life long aged fop, stenographer, Nat Birchall, stood petrified, mumbling, leaning, against the judge's bench, his face red and dripping wet with perspiration; staring aimlessly at his fellow County employees who were the selected fixed "spectators" of the trial while all other citizens were excluded by force of the numerous County Court

Officer Attendants in uniform. Nat Birchall, the aged, life long District Attorney's stenographer stood petrified as if awaiting Fate to end his miserable perjurous life, when suddenly, Assistant District Attorney Harold Spitzer barged into the courtroom and ordered the trial stopped and under his orders the judge, W'm Sullivan, stopped the trial and adhered to the commands of Harold Spitzer who took the stupefied old perjurer Nat Birchall off the witness stand, in the midst of his, Nat Birchall's testimony, and actually assisted Nat Birchall out of the court room. Defendant objected vigorously, Harold Spitzer informed the defendant that Nat Birchall had duties with the Grand Jury and the Grand Jury duties of Nat Birchall were much more important than Nat Birchall wasting time at the defendant's trial testifying as a witness.

The felonious conniving culprit, Mrs. Elizabeth Wirschning had just admitted she signed her general release and her $400 settlement check incorrectly in her usual peculiar manner of signing her name, and that she personally stated each and every injury to the Allstate Insurance Company doctor which are listed in the indictment as being false and which injuries are identical to those injuries listed in her doctor bill, handwritten by Dr. Milton E. Robbins.

For anyone but a "DUMB POLOK" (as defendant was called by the hand picked fanatic detective Becker) the trial would been ended immediately and the gangsterous gestapo like sadistic decade long persecution of this defendant would be investigated, especially if such persecution was inflicted upon any other lawyer.

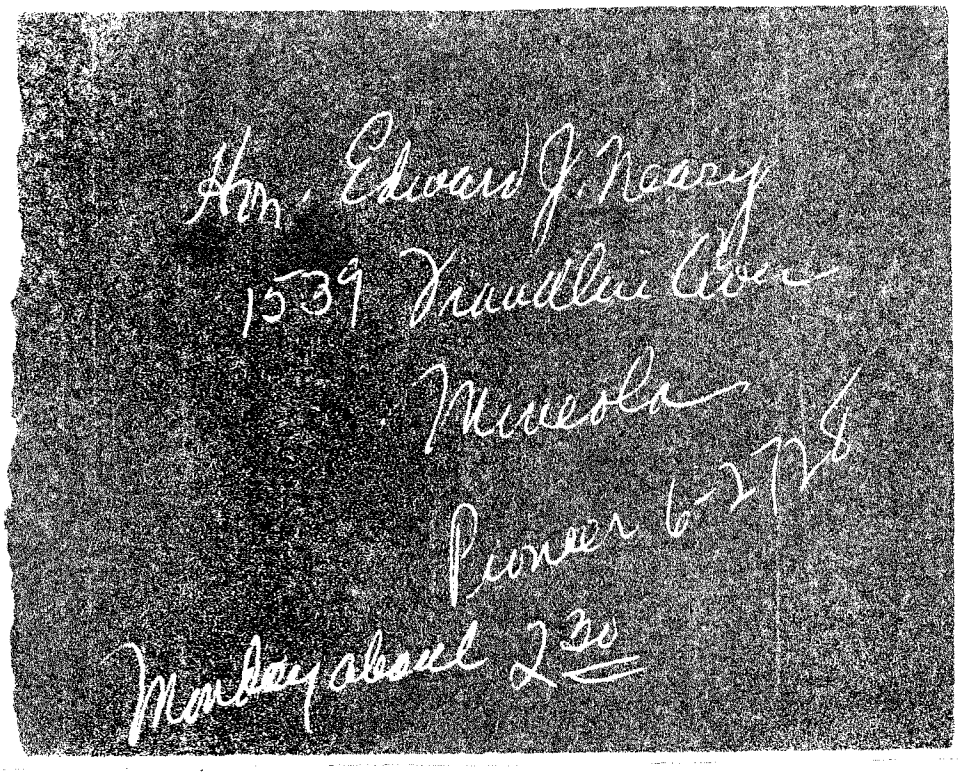
Instead, in complete kangaroo court manner the defendant's trial was then interrupted with not one but two important witnesses in the middle of cross examination, namely, Mrs. Wirschning and Nat Birchall, the trial was adjourned for approximately a week from November 6, 1958, to November 12, 1958, without notice to the defendant and in spite of the defendant's vigorous repeated objections calling for a mistrial (130-131).

During this illegal week long interrupting pause in the middle

of this defendant's trial, Judge Philip Kleinfeld, of the Appellate Division of the Supreme Court for the Second Judicial Department, repeatedly forwarded messages to this defendant warning this defendant that the defendant had to capitulate. During a court session of the Appellate Division of the Supreme Court for the Second Judicial Department, on Friday, November 7, 1958, Judge Philip Kleinfeld did interrupt the said court's session, in the presence of the other Judges and a Court Attendant, Vincent Gubitosie, in order that he, Judge Philip Kleinfeld, give an important message for this defendant from the said Appellate Division Court Bench. Judge Philip Kleinfeld stressed that even though this defendant was a practicing lawyer, this defendant must give up his Constitutional Rights of defending his innocence and the defendant must discontinue trying his own case and retain the lawyer "chosen" to capitulate for the defendant. As in the Spring of 1958, shortly after this defendant was indicted and Judge Philip Kleinfeld and Judge Henry Wenzel, both of the Appellate Division of the Supreme Court for the Second Judicial Department, caused this defendant to give Judge Philip Kleinfeld and Judge Henry Wenzel a typewritten statement as to this defendant's defense to the false indictment, Judge Philip Kleinfeld was once again respectfully notified that this defendant did not need a lawyer to capitulate to the false indictment, but defendant desired to be given a fair trial to prove his innocence and to prove the over decade long gestapo like illegal persecution of this defendant by Nassau County jurists and other Nassau County officials. After hearing this often repeated request on the defendant's behalf, Judge Philip Kleinfeld, in a message to the defendant, finally stated that regardless of defendant's innocence, defendant had created ill feelings amongst the important Nassau County jurists and therefore defendant's innocence did not matter; defendant must give up trying his own case and accept retaining the lawyer "chosen" to capitulate for defendant without a fee, because Judge Philip Kleinfeld then

stated "THE JUDGE AND JURY ARE FIXED" therefore regardless of this defendant's innocence this defendant would be convicted and "GIVEN A TERRIBLE PRISON SENTENCE."

IN ORDER TO MAKE CERTAIN THE THE DEFENDANT RECEIVE HIS COMPLETE MESSAGE, JUDGE PHILIP KLEINFELD HAND WROTE A NOTE TO THIS DEFENDANT OUTLINING THE ARRANGED APPOINTMENT WITH "HONORABLE EDWARD NEARY", A FORMER DISTRICT ATTORNEY OF NASSAU COUNTY, THE LAWYER "CHOSEN" TO CAPITULATE THIS DEFENDANT, AND ARRANGED DATE AND TIME OF THE APPOINTMENT WAS MONDAY, NOVEMBER 10, 1958, 2:30 P. M. WHICH IS STATED ON THE NOTE. A PHOTOSTATIC COPY OF THIS NOTE IS ATTACHED BELOW.



Defendant did not surrender to the coercive efforts of Judge Philip Kleinfeld. The farce kangaroo court trial of defendant with "fixed judge and jury" and fixed selected County employee "spectators" with roving, sneering Assistant District Attorneys seated near the trial judge's bench, was more than sufficient to make defendant cognizant of his status as the innocent "Dumb Polok" scape goat to be made an example of in order to atone for hundreds of established important, gangsterous, felonious, ambulance chas-

ing, fraudulent injury claim lawyers, who are secretly reprimanded, without criminal prosecution through the near farce activities of the Arkwright Committee investigating felonious lawyers. Prior to the week long interruption of this defendant's trial, during which interruption Judge Philip Kleinfeld attempted to coerce the defendant to capitulate to the false indictment because as he stated "the Judge and Jury are fixed", the repeated degrading remarks against defendant by the imp, lying trial judge W'm Sullivan, such as:

"The Court feels that everybody here is well advised of what we are contending with. Now please go ahead." (Mr. Dec) (160)

openly and wantanly, the trial judge corroborated the inadvertent admission of Judge Philip Kleinfeld, when he warned that "the Judge and Jury are fixed".

The fixed trial judge's illegal, fanatical, frantic, wanton and obvious efforts of preventing the prosecution's witnesses from breaking down in their perjurous stories are repeatedly found in even the fraudulently altered trial minutes. On direct examination when the perjurous Fred, the car thief, Wirschning began to break down and nearly admitted his felonious actions, namely:

"Q. I will repeat the question. Up to May of 1957 did you know a Dr. Milton E. Robbins?
Fred Wirschning : A. Could I explain it.
By the Court: Can you answer the question yes or no?
Fred Wirschning: A. The first time I ever heard of it --
The Court: Just a minute. Just a minute. Don't answer yet. The question was, as I recall it, up to May of 1957. Is that what you said Mr. Nixon?
Mr. Nixon: Yes.
The Court: Did you ever know a Dr. Milton E. Robbins? You will have to answer that yes or no." (270)

The imp judge, W'm Sullivan, did not in the least doubt that Fred Wirschning was breaking down in his perjurous story against the defendant. The imp, lying judge, W'm Sullivan, interrupted the breaking down, confessing, perjurous Fred, the car thief, Wirschning and then not only prevented Fred Wirschning from breaking down and admitting his felonious actions of going to Dr. Milton E. Robbins' office and obtaining and paying for Dr. Milton E. Robbins'

hand written medical bill for his wife's injury treatments in order that defendant could process her injury claim, as Fred Wirschning admitted in the District Attorney's office in July 1957 during the non-existent Grand Jury hearing. In addition the lying, fancy feather hair cut, hold over judge, W'm Sullivan, a self admitted neurotic psychotic in open court (839), in further kangaroo court style, ordered the faltering, breaking down, perjurer, Fred, the car thief, Wirschning, to answer only his own (judge W'm Sullivan's) leading question with a one word answer only, in order to prevent Fred Wirschning from explaining how he, Fred Wirschning, did go to Dr. Milton E. Robbins' office and did pay for and obtain his wife's hand written medical bill from Dr. Milton E. Robbins, which said medical bill Mrs. Wirschning relied upon to state her doctor treated injuries to the Allstate Insurance Company doctor, Joseph Rosenheck on May 24, 1956; which injuries are identical to the medical bill injuries claimed by the indictment as false.

Defendant having tried cases in Nassau County Courts prior to defendant's own trial and on appeal defendant found his trial records fraudulently altered, defendant purposefully testified at length and repeatedly in order to thwart complete fraudulent alteration of the trial minutes. This defendant after defending himself during the gestapo like farce trial repeatedly requested that the minutes of his trial be furnished for purposes of appeal. After many repeated oral and written complaints to the Nassau County Court, the trial stenographer and the District Attorney, this defendant duly made a detailed motion of 17 pages in the appellate court, the Appellate Division of the Supreme Court for the Second Judicial Department, on February 2, 1959, for an order compelling the stenographer, Michael Woek, at this defendant's trial to produce the trial record of this defendant's trial in accordance with section 456 of the Code of Criminal Procedure in order to minimize the time in which the District Attorney and his staff could fraudulently alter the lengthy trial minutes. The said defendant's

motion was put aside a week by the clerk of said Court, John Callaghan, his stated reason was because the District Attorney failed to reply. The said motion set forth in detail some of the illegal gestapo like persecution of this defendant by the District Attorney's office and the motion also set forth in detail other Court behested fraudulent alterations of trial records of cases tried by this citizen. The motion urgently petitioned the said appellate court to expedite its decision upon said motion in accordance with section 456 of the Code of Criminal Procedure. After hearing said motion, the said appellate court, finally a month and a half later, after Michael Wowk finally produced his obviously wantonly, fraudulently altered version of this defendant's trial minutes, approximately five months after this citizen's trial, the said appellate court dismissed this citizen's motion as academic and disregarded this citizen's statutory rights under section 456 of the Code of Criminal Procedure, which states the trial record must be delivered within the maximum time of 12 days after notice of appeal is served upon a conviction. The appellate court that delayed its decision on this citizen's said motion for an order commanding the stenographer at this citizen's trial to produce the trial minutes in accordance with section 456 of the Code of Criminal Procedure is the Appellate Division of the Supreme Court for the Second Judicial Department; the same court the afore mentioned Judge Philip Kleinfeld and Judge Henry Wenzel were Judges.

The wanton fraudulently altered trial record and unjust conviction was sanctioned by the Appellate Division of the Supreme Court for the Second Judicial Department and the Appellate Division of the Supreme Court for the First Judicial Department to which said latter court the said former court transferred this citizen's appeal on the hearing date without notice for hearing and determination. The Appellate Division of the Supreme Court for the First Judicial Department connivingly affirmed judgment without opinion on October 11, 1960, as did the Court of Appeals on July 7, 1961.

REASONS FOR GRANTING THIS APPLICATION

The decision below should be reviewed because:

1. New York State denied this citizen due process of law guaranteed by the Fourteenth Amendment to which guarantee is pertinent the right to a speedy trial when the State repeatedly adjourned this citizen's criminal trial over a period of nine months in spite of this citizen's duly undertaken repeated demands for a speedy trial as guaranteed by the Constitution.

This citizen's trial had not only been delayed by the District Attorney, but even worse, the District Attorney repeatedly adjourned this citizen's trial date several times, month after month, during a period of nine months. This citizen repeatedly demanded a speedy trial basing his demands upon the United States Constitution. Month after month, at each set trial date, this citizen's demands for a speedy trial were ignored by the County Court. Instead, the County Court Judge and District Attorney coerced and harassed this citizen in efforts to force this citizen to give up his Constitutional Rights of defending himself. This citizen's repeated demands for a speedy trial were ignored and the District Attorney's repeated requested adjournments were granted without any cause stated by the District Attorney. This citizen duly made a formal detailed written Motion to Dismiss the Indictment for Lack of Prosecution in the County Court. On October 8, 1958, the County Court heard the motion and dismissed this citizen's Motion to Dismiss the Indictment for Lack of Prosecution. This citizen stressed section 668 of the New York Code of Criminal Procedure, namely,

> "Section 668: When a person indicted is not brought to trial at the next term thereafter. If a defendant, indicted for a crime whose trial has not been postponed upon his application, be not brought to trial at the next term of the court in which the indictment is triable, after it is found the court may on application of the defendant, order the indictment to be dismissed, unless good cause to the contrary be shown."

The District Attorney gave no cause whatsoever for the District Attorney's repeated adjournments of this citizen's criminal trial

in his answering affidavit. The District Attorney in his answering affidavit promised the Court to commence this citizen's trial shortly in the October Term of 1958. Even this sworn promise by the District Attorney was ignored and disregarded by the District Attorney and this citizen's trial was postponed for another month until November 1958. The intentional final delay alone was sufficient for a dismissal of the indictment for lack of prosecution without considering the prior eight months of delay caused by the District Attorney. The total nine month delay with this citizen's repeated monthly appearances at trial call during which this citizen objected to the repeated adjournments of this citizen's trial is in complete derogation of this citizen's Constitutional Rights to a speedy trial. These same rights to a speedy trial are incorporated in the New York Code of Criminal Procedure, Section 8, namely,

> "Section 8. Right of defendant in criminal action. In a criminal action the defendant is entitled
> 1. To a speedy and public trial."

This citizen repeatedly complained to the trial court of the obvious reason why the District Attorney gave no reason for the repeated adjournments from trial term to trial term of this citizen's trial. The trial court ignored this citizen's appeals to the trial court that the lengthy repeated delays ordered by the District Attorney substantially weakened this citizen's defense to the indictment in that this citizen was required to remember the many detailed occurrences that proved this citizen's innocence and disproved the District Attorney's tutored know nothing stories of Mrs. Elizabeth Wirschning assisted by Dr. Milton E. Robbins. The many months delay assisted the said perjurous Mrs. Elizabeth Wirschning and Dr. Milton E. Robbins in forgetting the facts and assisted them in adhering to their tutored know nothing stories. In addition to this many month delay, the District Attorney had delayed this citizen's indictment for nearly a year subsequent to this citizen's appearances to the District Attorney's office, at

which time both Dr. Milton Robbins and the only other person present, who was involved in the matter, namely, Fred Wirschning, Mrs. Wirschning's husband, both confessed to this citizen's innocence and to the falseness of Mrs. Wirschning's complaint.

The said statutes Section 8 and 668 of the Code of Criminal Procedure set forth the specific requirements of a speedy trial.

The Court of Appeals of New York dismissed a judgment after plea of guilty to a new reindictment; after the original indictment was dismissed under said section 668 in People v. Wilson, 208 N.Y.S. 2d 963; restressing the statutory rights of a speedy trial and that "the prosecution failed to show the slightest 'good cause' for that delay", quoting People v. Prosser 309 N. Y. 353.

In the case of Ex Parte Gregory, Okl. Cr. (1957), 309 p. 2d 1083, where such statute defined what constituted a speedy trial the deciding court relied upon the time set by such statute, deciding that the statute 22 O.S. 1951 section 812 providing for discharge of an accused unless trial is had within stated time after indictment, information or committment was enacted for the purpose of enforcing the Constitutional Right to a speedy trial and must be construed fairly to the accomplishment of that end. The provisions of said statute cannot be obviated because of a jury was not provided due to lack of fund or local derilication.

In the cases of People v. Travis, 72 N. Y. S. 2d 804; People v. Warden, 199 Misc. 570, 102 N. Y. S. 2d 969, the courts reiterated the importance of the Constitutional and statutory right to a speedy trial.

2. New York State deprived this citizen of equal protection and due process of law guaranteed by the Fourteenth Amendment when New York State deprived this citizen from his statutory right to appellate review by producing a substantially fraudulently altered official trial record which said trial record is obviously wantonly, fraudulently deleted, abreviated, juxta-

positioned, hashed together, jumbled and lengthened with substitute material in an obvious attempt to keep secret the gestapo like farce kangaroo court trial to support the unjust felonious conviction of this citizen, a volunteer Veteran of World War II and a member of the Bar of the State of New York.

This citizen's first post trial motion was made in the Appellate Division of the Supreme Court for the Second Judicial Department of New York State. It was a Motion for an Order Compelling the Trial Stenographers to Produce the Trial Record of this Defendant's Trial. The motion was heard on February 2, 1959. Said motion was premised upon section 456 of the Code of Criminal Procedure of New York State, namely,

> "Section 456: Where the defendant is convicted of a crime the clerk of the Court in which the conviction was had shall within two days after a notice of appeal shall be served upon him notify the stenographer that an appeal has been taken whereupon the stenographer shall within ten days after receiving such notice deliver to the clerk of the Court a copy of the stenographic minutes of the entire proceeding of the trial."

This citizen devoted much of the said 17 page motion to cogent reasons for said motion, based upon specific occurrences of injustice because of delays in the delivery of stenographic notes which were finally delivered to this lawyer citizen fraudulently altered. The motion was specific and detailed in its repeated petitions for expeditious ajudication, in order to prevent or curtail possible intentional fraudulent alteration of this citizen's lengthy trial record. Due to the District Attorney's failure to reply, the said motion was put aside a week. Thereafter, a month and a half later, when one of the trial stenographers, Michael Wowk, finally delivered his fraudulent record of this citizen's trial, the said Appellate Division of the Supreme Court for the Second Judicial Department dismissed this citizen's motion as academic and useless. This citizen stressed said motion later in his appeal brief with reference to the recently decided case of People v. Chester Pitts, (6 N Y 2d 288).

On October 5, 1959, this citizen made application to the

County Court to amend the trial record. This citizen submitted 794 Proposed Amendments, 320 typewritten pages in length to the County Court; said amendments substantially corrected the fraudulently altered trial minutes of this citizen's trial produced by Michael Wowk, one of the trial stenographers at this citizen's trial. This citizen incorporated said 794 Amendments in his later motion to extend time to perfect his appeal in the Appellate Division of the Supreme Court for the Second Judicial Department. This citizen also incorporated said 794 Amendments by reference in his appeal brief in said Appellate Division of the Supreme Court. This citizen extracted several excerpts from the wantonly fraudulently altered trial minutes produced by Michael Wowk, the Nassau County Court stenographer and included said excerpts in this citizen's briefs in all of the lower appeal courts. Two of said excerpts which were included in this citizen's lower appeal courts briefs and motions are included below:

> "And I say that Mr. and Mrs. Wirschning knew that the moneys was there and are being used as dupes because they are fearful either they prosecute me or they bring it forth, the insurance company, to show Mrs. Wirschning you were hurt so and so and so and so and you retained the lawyer. He has a retainer. You committed fraud and your husband automatically is guilty of an attempt of committing a fraud on the insurance company and the lawyer has done his work according to the routine which the District Attorney has -- fifty per cent of the fee is mine, $200 -- which they agreed to, but if the client knows nothing of it" (p. 31)

> "The conversation in these records they claim that were made is not such that I would have nor anyone would have where direct questions in reference to a crime. I have never acknowledged these. They were admitted in evidence over my objection, that they were hearsay, as not in accordance with the best evidence rule, as not in accordance with material and essential items, to the Court and other objections. I have not adopted them." (p. 845)

The Court of Appeals of New York State in deciding the monumental People v. Pitts Case (6 N Y 2d 288) cited both Griffin v. Illinois (351 U. S. 12) and People v. Pride (3 N Y 2d 545) and based its opinion on the denial to Pitts of his Constitutional Right to appeallate review within the meaning of the equal protec-

tion and due process clauses of the Constitution. Stressing the factors of Pitts' indigence and lack of counsel the Court of Appeals primarily based its decision upon the fact that there were no trial minutes produced in accordance with section 456 of the Code of Criminal Procedure and that upon dismissal of the Pitts' appeal there still were no trial minutes produced by the State in derogation of Pitts' Constitutional Rights to appellate review. This citizen has been not only deprived of the trial record through the State's production of the obviously wantonly fraudulently deleted, abreviated, juxta-positioned, hashed together, jumbled and lengthened with substitute material trial record, still worse, this citizen's gestapo like farce kangaroo court trial which supported the unjust felonious conviction of this citizen has been kept secret by the wanton fraudulent alteration of this citizen's trial record by and under behest of New York State jurists. The Court of Appeals of New York in the said Pitts case decried the deprivation of the Constitutional Right to appellate review because of the lack of the trial record. But in this citizen's farce appellate review to the said Court of Appeals, the said court sanctioned the wanton fraudulent alteration of this citizen's trial record by and under behest of State Court Jurists. The obvious wantonly fraudulently deleted, abreviated, juxta-positioned, hashed together, jumbled and lengthened with substitute material lengthy trial record was stressed by this citizen as depriving this citizen from appellate review, but the Court of Appeals of New York sanctioned this impish deprivation of this citizen's Constitutional Rights and this citizen still remains convicted through the wanton frauds of the New York judiciary and as this citizen warned in his Court of Appeals of New York appeal brief, namely, that the Constitution and laws of this Country resolve into a facade for a dynamic, labyrintical, omnipotent, lawless, judicial dictatorship.

3. The State of New York did deprive this citizen of equal protection and due process of law guaranteed by the Fourteenth Amendment when it halted the gestapo like farce kangaroo court trial of this citizen for a period of approximately one week, after the court's ordering the halting of the cross examination of the completely breaking down and confessing perjurous chief prosecution witness, Mrs. Elizabeth Wirschning, wherein she, through her sworn, detailed, cross examination testimony disproved the accusations of the false indictment created by and through the gestapo like frauds of the District Attorney and his staff and the trial court's further ordering the alteration of said Elizabeth Wirschning's cross examination with that of the near non-existent hearsay testimony of the near speechless, petrified, aged, perjurous, life long District Attorney's stenographer, namely, Nathan Birchall, and then after halting both said cross examinations in spite of this citizen's objections, the court ordered the halting of this citizen's trial for approximately one week during which week this citizen, defendant, was coerced through oral and written messages by Judge Philip Kleinfeld, a Judge of the Appellate Division of the Supreme Court for the Second Judicial Department of New York State, the said messages warning this citizen, defendant, that regardless of this citizen's innocence, this citizen must surrender his Constitutional Rights as a citizen and lawyer and give up trying his own case because both judge and jury were fixed and if this citizen did not retain a "chosen" ex District Attorney, namely, Edward Neary, as his lawyer to plead guilty to the false charges then this citizen's trial would lead only to this citizen's felonious conviction and a severe prison sentence because " the judge and jury are fixed".

Shortly after the trial began, the felonious conniving culprit, Mrs. Elizabeth Wirschning, had just broke down during cross examination and admitted her signing her general release and her $400 settlement check, she further broke down and in detailed lengthy

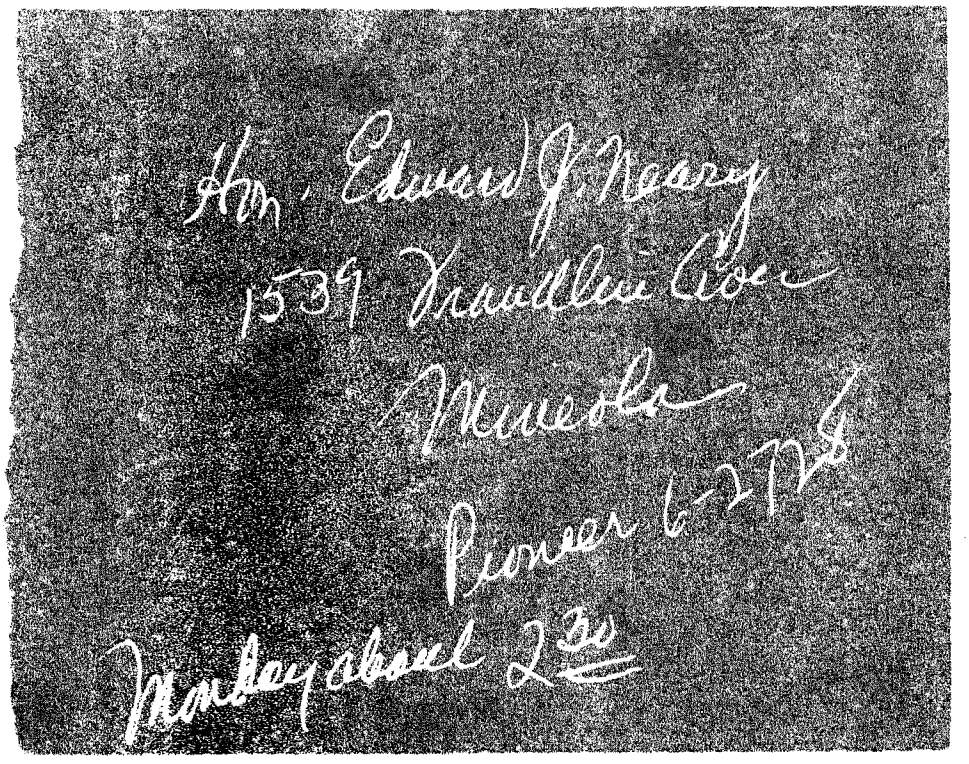
testimony admitted she personally stated and claimed each and every injury as her total injuries listed as false in the indictment and that these injuries she claimed were identical to her doctor bill, handwritten by Dr. Milton E. Robbins. Quickly the trial judge interrupted this citizen's cross examination of the completely breaking down and confessing Mrs. Elizabeth Wirschning. The court ignored this citizen's objections and quickly called "Nat" Birchall to the stand for the prosecution. "Nat" Birchall, the dishonest, aged, perjurous, life long fop, District Attorney's stenographer stood petrified, mumbling, leaning against the judge's bench, his face red and dripping wet with perspiration; staring aimlessly at his fellow county employees who were the selected fixed "spectators" as if awaiting Fate to end his miserable perjurous life, when suddenly Assistant District Attorney Harold Spitzer barged into the court room and ordered the trial stopped and took the stupefied old perjurer, "Nat" Birchall, quickly out of the court room under the excuse that the Grand Jury duties of the old perjurer, "Nat" Birchall, were much more important than his wasting his time testifying as a witness at this citizen's trial.

For anyone but a "Dumb Polok" (As this citizen was called by the hand picked fanatic, Detective Becker) the trial would be immediately dismissed and the gangsterous gestapo like sadistic persecution of this citizen would be investigated, especially if such persecution was inflicted upon any other lawyer. Instead, in complete kangaroo court manner this citizen's trial was then interrupted with not one but two important witnesses in the middle of cross examination, namely, Mrs. Wirschning, the complainant, and "Nat" Birchall, the District Attorney's stenographer. The trial was suddenly adjourned for approximately a week from November 6, 1958, to November 12, 1958, without notice to this citizen and in spite of this citizen's vigorous repeated objections calling for a mistrial (130-131).

During this illegal week long interrupting pause in the middle

of this citizen's trial, Judge Philip Kleinfeld, of the Appellate Division of the Supreme Court for the Second Judicial Department of New York State, repeatedly forwarded messages to this citizen warning that this citizen had to capitulate. During a session of the said Appellate Division of the Supreme Court for the Second Judicial Department of New York State, on Friday, November 7, 1958, Judge Philip Kleinfeld did interrupt the court session in the presence of the other Judges and a Court Attendant, Vincent Gubitosie, in order that he, Judge Philip Kleinfeld, give a message for this citizen from the Bench of the Appellate Division of the Supreme Court for the Second Judicial Department of New York State. Judge Philip Kleinfeld stressed that this citizen, even though a practising member of the Bar of New York State, must give up his Constitutional Rights of defending his innocence and retain the "chosen" lawyer, Edward Neary, a former District Attorney of Nassau County, to capitulate for this citizen. Judge Philip Kleinfeld was once again respectfully notified, as Judge Kleinfeld was informed in the Spring of 1958, that this citizen did not need a lawyer to capitulate to the false indictment, but this citizen desired to be given a fair trial to prove his innocence and prove the over decade long gestapo like illegal persecution of this citizen by Nassau County Jurists and Public Officials. After hearing this often repeated request from this citizen, Judge Philip Kleinfeld, in a message to this citizen finally stated that regardless of this citizen's innocence, this citizen had created ill feelings amongst several important Nassau County Jurists and therefore, this citizen's innocence did not matter; this citizen must give up trying his own case and accept retaining the lawyer "chosen" to capitulate for this citizen without a fee, because Judge Philip Kleinfeld then stated "THE JUDGE AND JURY ARE FIXED" therefore, if this citizen did not capitulate, regardless of this citizen's innocence, this citizen would be convicted and "GIVEN A TERRIBLE PRISON SENTENCE."

In order to make certain that this citizen received his complete message, Judge Philip Kleinfeld hand wrote a note to this citizen outlining the arranged appointment with "Honorable Edward Neary", a former District Attorney of Nassau County, the lawyer "chosen" to capitulate this citizen, the arranged date and time of the appointment was Monday, November 10, 1958, 2:30 P.M. which is stated on the note. Photostatic copy of this note is attached below:



The warning by Judge Philip Kleinfeld, namely, "THE JUDGE AND JURY ARE FIXED" and this citizen's trial would only lead to a "TERRIBLE PRISON SENTENCE" was fulfilled and this citizen received three felonious suspended execution sentences of 2½ to 5 years in prison at hard labor.

This citizen has found no citation describing similar gestapo like persecution during a farce kangaroo court trial. This citizen's persecution through criminal prosecution is obvious when considered and compared with the usual anonymous and semi secret civil disbarment or simply a short suspension or a token censure imposed upon life long felonious lawyers, as often exemplified in the said Second Judicial Department and especially

by the many investigations of the Arkwright Judicial Investigative Committee. See Anonymous v. Baker (360 U.S. 287), Albert Martin Cohen v. Denis M. Hurley, Decided by the Supreme Court of the United States on April 24, 1961. The near farce activities of the Arkwright Judicial Inquiry, the originator of the above cited cases, produced no felonious conviction of any of the multitude of life long felonious lawyers brought before the Appellate Division of the Supreme Court for the Second Judicial Department. After this citizen's gestapo like kangaroo court felonious conviction on the contradictory, perjurous, complaint of one client and this citizens sentence to three felonious five year prison terms, then belatedly an unknown, unimportant life long felonious lawyer, Armand Kolodny, was belatedly selected from Nassau County by the District Attorney, instead of one of the many important life long notorious felonious lawyers, to attempt to "disprove" this citizen's contentions of this citizen's unprecedented gestapo like persecution. This Armand Kolodny, whose entire legal career for years was a series of felonious, fraudulent insurance injury claim settlements pleaded guilty to his belated indictment, which in token was composed of only four counts of second degree grand larceny. This lawyer, Armond Kolodny, conveniently received a Certificate of Reasonable Doubt from a Nassau County Supreme Court Judge after pleading guilty to a token reduced indictment and was illegally immediately released from prison pending the farce appeal on the Constitutional grounds quoted in United States Code Annotated, Constitution Amendments 14 to End, Note 590, Page 184, as follows:

> "If persons convicted in Nassau County were required to be sentenced to state prison because of lack of county penitentiary while others similarly convicted in other counties received lesser sentence to county penitentiaries, question of whether sentencing procedure violated equal protection clauses of state and federal Constitutions arose entitling one convicted in Nassau County and sentenced to state prison to certificate of reasonable doubt pending appeal to Appellate Division. People v. Kolodny, 1959, 194 N.Y.S. 2d 735, 20 Misc 2d 267."

This above citation and the law in reference to it is erroneous.

The Said Armand Kolodny pleaded guilty to a reduced token indictment, there was no trial or conviction for which a sacrosanct Certificate of Reasonable Doubt could be issued. The Appellate Division of the Supreme Court for the Second Judicial Department, with said Judge Philip Kleinfeld concurring, sacrosanctly not only approved this farce Certificate of Reasonable Doubt issued after a greatly reduced plea of guilty by a life long felonious, fraudulent, lawyer, Armand Kolodny, (whose crimes were notorious and even known to this citizen) but also the Appellate Division of the Supreme Court for the Second Judicial Department agreed with the contentions of Armand Kolodny, and the said court ruled that "a prison sentence was excessive" and said court completely dispensed with the prison sentence received by Armand Kolodny upon his token plea of guilty for his many year long legal career as a felonious lawyer which amounted to "a series of (felonious) transgressions" as stated by the said Appellate Division of the Supreme Court for the Second Judicial Department in People v. Kolodny, (10 A D 2d 950). Even this life long felonious lawyer, Armand Kolodny, was placed above a felonious prison sentence by the Appellate Division of the Supreme Court for the Second Judicial Department and even though Kolodny's token guilty plea to a greatly reduced indictment was illegally in kangaroo court style appealed and set aside in derogation of the pertinent sections of the statutory law. The District Attorney of Nassau County took no appeal from the illegal kangaroo court style appeal and farce reversal by the Appellate Division of the Supreme Court for the Second Judicial Department.

4. The State of New York did deprive this citizen of equal protection and due process of law guaranteed by the Fourteenth Amendment by upholding a felonious conviction of this citizen wherein the trial court in collusion with the prosecution, and in spite of this citizen's objections, withheld the contradictory sworn statements of complaint of the prosecution's perjurous only

two chief witnesses, namely, Mrs. Elizabeth Wirschning and Dr. Milton E. Robbins, especially when the withheld statements disprove the indictment of this citizen defendant.

When this citizen first appeared at the District Attorney's office relative to this matter, in July of 1957, this citizen complained of the falseness of the raving incoherent accusations made by an Assistant District Attorney, Edward Robinson, accusing this citizen of ambulance chasing false injury claims. The convulsive Edward Robinson, in muddled raving accusations accused this citizen, a lawyer, of being a felonious ambulance chasing lawyer without a retainer on the say so of one client, a Mrs. Elizabeth Wirschning. Edward Robinson based his raving accusations upon the sworn complaint of Mrs. Elizabeth Wirschning, who he alleged swore she never signed any retainer with this lawyer citizen and further Mrs. Wirschning swore she never retained this citizen as her lawyer and that she, Mrs. Wirschning, did not know this citizen and that she, Mrs. Wirschning, never made nor settled any injury claim against the Allstate Insurance Company.

The raving, incoherent, psychotic like ravings of Edward Robinson Jr. have been fraudulently altered in the District Attorney's stenographer's record. (Such practice of fraudulently altering such statements as a District Attorney's office sees fit is common knowledge, especially to the legal profession, and is considered a sacrosanct right of any District Attorney's office.) At this citizen's trial, even after the year and a half delay impishly created by the District Attorney, Mrs. Elizabeth Wirschning completely contradicted her original sworn complaint. In order to further prove the perjurous nature of Mrs. Wirschning's short answer direct testimony, this citizen demanded the original complaining statement of Mrs. Wirschning upon which Edward Robinson based his raving incoherent accusations of this citizen nearly a year and a half before this citizen's trial. The Court repeatedly refused this citizen's requests for an inspection of

such document.

The only other alleged actual witness for the prosecution, Dr. Milton E. Robbins, the self admitted perjurer and liar also admitted that he, Dr. Milton E. Robbins, Gave two completely contradictory sworn statements as to the matters pertaining to this citizen's indictment. Dr. Milton E. Robbins in repeated sworn cross examination testimony broke down and admitted that he, Dr. Milton E. Robbins made an original detailed statement to the District Attorney when he, Dr. Robbins, first appeared in the District Attorney's office in July of 1957. Dr. Robbins during cross examination admitted that he, Dr. Robbins, made this first detailed statement unpremeditated and offhand unassisted by any lawyer and that he, Dr. Robbins, stated in detail his knowledge of the Wirschning's and his medical treatments given to Mrs. Wirschning relative to the injuries the indictment claimed false. Dr. Robbins during cross examination broke down and confirmed his first sworn statement to the District Attorney and also admitted that his first unpremeditated sworn statement to the District Attorney was in complete contradiction with his direct short answer testimony of knowing nothing about everything. Dr. Robbins further broke down during cross examination and admitted that his direct testimony of knowing nothing about everything was a story concocted in a two week period after his first visit to the District Attorney's office; Dr. Robbins also broke down and admitted that during the two week period he was aided in concocting his final know nothing story by his long time lawyer brother in law, and a noted Nassau County lawyer and friend of the District Attorney, J.D.C. Murray. During cross examination Dr. Robbins further admitted that his detailed unpremeditated statement recorded by the District Attorney completely contradicted his concocted know nothing story he stated during his direct examination and that his, Dr. Robbins' first detailed unpremeditated statement to the District Attorney in no way implicated

this citizen in any crime. This citizen repeatedly demanded during the trial that the recorded first unpremeditated statement by Dr. Robbins to the District Attorney be produced by the District Attorney. Even the extant trial record produces defendant's (this citizen's) requests, namely, "Mr. Dec: Your Honor: I now make a request to see the first statement made and recorded by the District Attorney in that the District Attorney is here present in this Court. (p. 391). The Court repeatedly refused this citizen's righteous requests, claiming that Dr. Robbins' said statement was not in evidence therefore the defendant could not inspect it.

In the farce appellate review to the Court of Appeals wherein said Court haughtily affirmed the original farce "no opinion" affirmation of judgment, the District Attorney's office in typical wanton omnipotent above the law reply brief stated "Dr. Robbins testified that when he was first examined during the investigation he denied his criminal involvement. Thereafter, following consultation with counsel, he made a further statement readily admitting and confessing his guilt. Dr. Robbins testified to these facts at the trial and there is no real inconsistency between the investigation and the witness' testimony at the trial." On the omnipotent say so of the District Attorney, the established law stressed in People v. Luis Manuel Rosario decided by the Court of Appeals of New York on March 23, 1961, was ignored by the Court of Appeals, as was the importance of Mrs. Elizabeth Wirschning's and Dr. Robbins' contradictory sworn statements against this citizen. In typical kangaroo court fashion the Court of Appeals agreed with the dictated lies and falsehoods of the District Attorney and both Mrs. Wirschning's and Dr. Robbins' original sworn statements during the investigation and the completely contradictory much later stated direct testimony (which direct testimony consisted of tutored short, or yes and no answers to leading questions of the trial judge or prosecutor) were wantonly ignored by the Court of Appeals. The Court of Appeals intentional disregard of this

citizen's rights as set down in such cases as People v. Walsh (262 N. Y. 140, 149); People v. Schainuck (286 N. Y. 161); People v. Dales (309 N. Y. 97); People v. Bai (7 N. Y. 2nd 152, 155); cases cited by the Court of Appeals in its sacrosanct summation of the prior existing pertinent law to such contradictory statements of witnesses in its decision of People v. Luis Manuel Rosario the Court of Appeals stated: "in New York we have allowed the defendant to see and use the statement only if it contains matter which is inconsistent with the testimony given by the witness from the stand."

The case of People v. Luis Manuel Rosario (supra) is an important decision of the Court of Appeals in that through this decision finally New York State corrected its narrow interpretation on the subject of defense counsel's right to see a witness' prior statement and has finally assumed the more just interpretation of the United States Supreme Court as set forth in Jencks v. United States (353 U.S. 657, 667, 668) in which case the Supreme Court has held that a defendant is entitled to inspect any statement made by the government's witnesses which bears on the subject matter of the witness' testimony. Therefore, this being the New York Law established upon appeal to the New York Court of Appeals prior to this citizen's appeal to the said Court of Appeals the benefits of this decision of the Court of Appeals therefore automatically accrued to this citizen because this citizen stress this identical point of law as one of his contentions to the said Court of Appeals and this citizen specifically stressed the said People v. Luis Manuel Rosario decision of the said New York Court of Appeals which said decision assumes the established interpretation of the United States Supreme Court set forth in the case of Jencks v. United States (353 U. S. 657), and Alvin R. Campbell, Arnold S. Campbell and Donald Lester v. United States, Decided by the Supreme Court of the United States on January 23, 1961.

5. The State of New York did deprive this citizen of due process of law guaranteed by the Fourteenth Amendment by upholding a felonious conviction of this citizen brought about by a farce kangaroo court trial wherein repeated statements by the trial judge and prosecutor claim directly and impliedly and through statutory definition that a hearsay, unverifiable copy of the District Attorney's stenographic notes consisting mostly of hearsay conversations of others than this citizen, defendant, did constitute a confession by this citizen, defendant, and thereby through statutory definition of criminal confessions practically convict this citizen, defendant; when subsequently through written admissions of the prosecution in the prosecution's appeal brief to the Court of Appeals of the State of New York the said District Attorney's hearsay stenographic notes are stated not to constitute a confession, a contention obviously directly opposite to that taken by the prosecution and trial judge during this citizen's trial.

The prosecutor and the trial judge throughout the trial and in the final summation and charge to the jury did imply and state that the fraudulently altered hearsay copy of the hearsay stenographic notes of "Nat" Birchall constituted a confession by this citizen. The said notes suppositively contained the conversations of Frank Gulotta, Edward Robinson Jr., J.D.C. Murray, Detective Alva Becker and others allegedly stated at the non-existent Grand Jury hearing to which this citizen was subpoenaed to the District Attorney's office in July of 1957. The trial judge in his prepared charge to the jury defined the law in reference to the "Nat" Birchall stenographic notes and ordered that the jury must consider the "Nat" Birchall stenographic notes as defined by statute, namely, "With respect to that type of evidence, our law provides that a statement of a defendant whether in the course of prejudicial proceedings or given to a private person can be introduced in evidence against him but that statement alone is not

sufficient to warrant a defendant's conviction without additional proof that the crime charged has been committed." (949). This instruction to the jury by the trial judge as to the law as to the evidentiary value of "Nat" Birchall's fraudulently altered stenographic notes in the judge's charge to the jury is a verbatum excerpt of Section 395 of the N. Y. Code of Criminal Procedure titled, "Confession of defendant, when evidence, and its effect." Without considering the other statements of the judge in his charge to the jury which imply that "Nat" Birchall's fraudulently altered stenographic notes constituted a confession by this citizen, the verbatum excerpt of Section 395 of the N. Y. Code of Criminal Procedure defined "Nat" Birchall's fraudulent stenographic notes as an all encompassing confession by this citizen, and thereby, by statute literally convicted this citizen with the simple requirement of any additional evidence. Actually, the hearsay fraudulently altered stenographic notes of "Nat" Birchall, the aged District Attorney's stenographer, in no way constitute a confession and subsequently on appeal to the Court of Appeals of New York, the District Attorney in his brief, for expediency in order not to make the appeal a complete obvious farce, the District Attorney admitted that the fraudulent Birchall stenographic notes did not constitute a confession.

This is reversible error. An Admission Written or Oral People v. Giro (197 N. Y. 152, 160) as distinguished from a confession, is not direct, but circumstantial evidence People v Bretagna (298 N. Y. 323, 326); People v Koslow (6 A D 2nd 713). Three doctrines control it:

(1.) Like a confession, it must be found not only voluntary, but true in fact, else it is ineffectual. (cf. People v. Elmore (277 N.Y. 397, 404), Gangi v. Fraudus (227 N. Y. 452). The fraudulent alteration of the Nathan Birchall notes by the District Attorney's office was specifically stressed by this citizen by objections and Motion for Mistrial.