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Katzmann Argument  
Motions II, III, IV.

Motion # II.

Could:-

Law; Of evidence merely cumulative direction is  
to be exercised against motion.

Could was eye witness & was within 10 ft of auto  
as it passed up street. Defence claims to have  
exercised due diligence

Could was within 10 ft. Storing of affidavit  
is undoubtedly by Moore.

Gov't claims evidence cumulative

Frank J Burke was in same position & had  
same opportunity for observation.

On same side of car, same distance away

Should personality of Could be such as to reverse verdict.

Letter of F. J. Burke to Moore

Burke says, after interviewing Could, that  
Could told him that he followed Ber.

& Par down street & was right behind them  
at time of shooting

Could says in affidavit P. 2 that taxi man  
told him to follow paymaster that he  
walked toward Pearl St & heard noises of  
guns as he approached North side of  
Pearl St



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that shooting was down Pearl St to east of  
his position. He went out into street & looked  
east Auto passed him as he stood in street  
west of railroad

Story of Gould changed for purposes of the  
affidavit. Evidence showed paymaster, guard  
assailants & Boetock at point of shooting & no  
one else.

Letter says Gould was shot thru lapel of coat  
Affidavit does not refer to lapel. (P. 3. aff)  
simply says bullet went thru overcoat.

No coat is produced with affidavit.

Mistake as to person to whom name was given  
Moore assumes that mistake

Correction came after affidavit of Gallivan  
denying that name was given to him.

Heaney took name & facts & gave name to  
Police Dept & State Police

Heaney affidavit states no facts re to story of  
Gould.

Inference is that govt had name of Gould & did  
not want to interview

To whom did Heaney give name

Chief Gallivan says he never had name



Gallivan affidavit read.

Never heard of Roy E. Gould until after filing  
of motion.

Heaney says he gave name to State Police

We don't know to whom he gave name

Has not given to Brullard or Stewart or D. A.

Council cannot suggest why Gould was not interviewed

Burke says Sacco not the person on right of auto