

THE PEOPLE vs. OSSIAN SWEET, GLADYS SWEET, et al.

Transcript of Testimony Given In the
Recorders Court of the City of Detroit, Michigan
November 5, 1925 to May 13, 1926.

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STATE OF MICHIGAN
IN THE RECORDERS COURT OF THE CITY OF DETROIT

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Before Hon. Frank Murphy, Judge of the Recorders
Court, of the City of Detroit, and a Jury, Thursday,
November 5th, 1925, 1925.

APPEARANCES:

Robert M. Toms, Prosecuting Attorney,
Lester B. Moll, Chief Assistant Prosecuting
Attorney,
Edward J. Kennedy, Assistant Prosecuting
Attorney,
Appearing on behalf of the People.

Clarence S. Darrow, Esq.,
Walter Nelson, Esq.,
Herbert J. Friedman, Esq.,
Cecil Rowlette, Esq.,
Charles H. Mahoney, Esq.,
Julian W. Perry, Esq.,

Attorneys for Defendants.

Arthur Garfield Hayes, Esq.,
Of counsel for defendants.

Edward
Community Center

2389

STATE OF MICHIGAN
IN THE RECORDERS COURT OF THE CITY OF DETROIT

THE PEOPLE

-VS-

No. 60317

OSSIAN SWEET, GLADYS SWEET,
JOE MACK, HENRY W. SWEET,
MORRIS MURRAY, OTIS O. SWEET,
CHARLES B. WASHINGTON, LEONARD
C. MORRIS, WILLIAM E. DAVIS,
JOHN LATTING and HEWITT WATSON.

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Attorneys for Defendants.

Arthur Garfield Hayes, Esq.,
Of counsel for defendants.

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Recording Office

(Jury excused.)

THE COURT: All right, gentlemen, you may proceed.

MR. TOMS: If your Honor please, I have prepared, in response to counsel's request, the so-called bill of particulars, which contains the statement of the state's theory in the case. I have filed it, and wish to read it into the record.

THE COURT: I wish you would read it into the record.

MR. TOMS: The theory of the People in this case is that the defendants premeditatedly, and with malice aforethought, banded themselves together and armed themselves with the common understanding and agreement that one or more of them would shoot to kill in the event, first, of threatened or actual trespass upon the property wherein they were assembled; or, second, of the infliction of any damage, real or threatened, however slight, to the persons or property of them or any of them. Further, that the deceased came to his death by a bullet fired by one of the defendants, aided and abetted by all of the others, in pursuance of their common understanding as above set forth. Further, that such understanding and agreement was to commit an unlawful act, to wit, to shoot to kill without legal justification or excuse.

THE COURT: Mr. Hayes, is there anything further from your side?

MR. HAYES: May we consult for just a moment, your Honor?

THE COURT: Hand me the information.

MR. HAYES: Your Honor, this bill of particulars according to my view, is not sufficiently definite in one or two respects. The allegation is that the agreement was that one or more of them would shoot to kill in the event of threatened or actual trespass, or the infliction of any damage. I suppose that would make it a crime only in the event that it was not necessary to kill to prevent threatened or actual trespass, and that these men knew it, and that it wasn't necessary to kill to prevent damage, and that these men knew it. So I think the bill ought to be made more definite in those respects in order to allege a crime.

THE COURT: The motion to make the bill further definite is denied.

MR. HAYES: I take an exception.

MR. TOMS: Your Honor, the blackboard that was here has been removed. I think it will be used.

(Interruption.)

MR. TOMS: Ready, your Honor.

(The jury was then brought in.)

MR. TOMS: Gentlemen of the jury, at this point it is my duty to outline to you both the theory of the State in this prosecution and what evidence we expect to produce before you to substantiate the charge which was brought here. It is not necessary to tell you again that these eleven defendants are charged with the crime of murder. On the 9th day of September the State charges that they unlawfully caused the death of Leon Breiner, and I think it may not be amiss to read to you the theory

of the State, as it is a part of the record here, gentlemen of the jury, and what theory we proceed from this point on.

The theory of the people in this case is that the defendants premeditatedly and with malice aforethought banded themselves together and armed themselves with a common understanding and agreement that one or more of them would shoot to kill in the event, first, of threatened or actual trespass on the property wherein they were assembled; or, second, of the infliction of any damage, real or threatened, however slight, to the persons or property of them or any of them. Further, that the deceased came to his death by a bullet fired by one of the defendants, aided and abetted by all of the others, in pursuance of their common understanding as above set forth. Further, that such understanding and agreement was to commit an unlawful act, to-wit, to shoot to kill without legal justification or excuse.

The defendants are Dr. Ossian Sweet, and his wife, Gladys Sweet, and his two brothers, Henry and Otis Sweet, and in addition, Joe Mack, Morris Murray, Charles B. Washington, Leonard C. Morris, William E. Davis, John Latting and Hewitt Watson. Now, any statements that I make as a matter of fact, we will assume that they are statements of what the State will prove or bring evidence to show later. So, if you will understand each statement to be prefaced by the clause "the State expects to prove" on the 8th of September of this year Dr. Sweet and his wife - -

I will go back to June when they purchased the property on the northwest corner of Garland and Charlevoix Avenue for a residence. They made no attempt to occupy the premises until the 8th day of June, Tuesday - -

MR. DARROW: 8th day of September.

MR. TOMS: 8th day of September, pardon me, Tuesday. On that day, a very small amount of their furniture was moved into the house. On the 9th of the September, the following day, groceries in substantial amount were taken into the house. The entire downstairs was practically unfurnished. There was no dining room furniture, no living room furniture, but upstairs there was one bedroom suite, some clothing, small amount, some bedding, and that is about all. In other words, the house was not ready to be lived in. It was only very partially furnished. On the 9th of September, Dr. Sweet and his wife stayed in the house. The other defendants came there, not altogether, but before dark, all of the other defendants - - the nine other defendants were in the house. Two of the defendants sat on the front steps until dark, maybe some time later in the afternoon, and as soon as it was dark went into the house, which placed all eleven of the defendants in the house, around seven o'clock. I have drawn a rather inaccurate, but perhaps sufficient diagram of the neighborhood in which this house is located. Can you all see it? Is there a reflection? Can you all see the diagram? Garland Avenue is this street running north and south. Charlevoix, with two car lines on it, is the street running east and

west. The house to which I have referred, Dr. Sweet's house, is on the northwest corner of Garland and Charlevoix, marked with a cross, fronting on Garland Avenue; across Garland Avenue there is a grocery store, which faces Charlevoix, which fronts on Charlevoix, the entrance being at the corner of the building. There is perhaps too much space here (indicating), but that is immaterial. The Ford car owned by the proprietor of this grocery store stood at the curb, on Garland Avenue, facing in the proper direction, northerly. Directly back of the grocery store is a two family flat, with two doors, one leading to the downstairs and one to the upstairs. There are two small trees in front of that house, houses continuing up Garland Avenue rather closely spaced together. On the corner diagonally opposite Dr. Sweet's house is a public school, set well back from both Charlevoix and Garland, and with quite an open space on both sides of it. In the rear of Dr. Sweet's house is a three car garage, letting out into the alley in the rear, this square indicates the house adjoining Dr. Sweet's, the space between it being approximately six to eight feet; directly across Charlevoix Avenue from Dr. Sweet's house is a large apartment building which comes flush with the sidewalk, there being no space between the sidewalk and the wall of the building. The doors of this apartment building face on Charlevoix Avenue, and I think also on Garland, with an alley in the rear and a garage across the alley. There is a street light, an arc lamp, at approximately this point (indicating),

suspending on an arm at the top of a lighting pole placed at this corner. It is not suspended over the middle of the street, but over a horizontal arm at the top of a lighting pole. I think that sufficiently explains the topography.

We will start with the chain of events early in the evening of the 9th of September.

MR. DARROW: Are you going to say anything about the 8th? I don't mean to go there were no people in Sweet's house.

MR. TOMS: Well, what do you mean, what particular events?

MR. DARROW: Moving in the 8th?

MR. TOMS: I have already stated that.

MR. DARROW: I thought you said they moved in the 9th.

MR. TOMS: They moved in on the 8th, on Tuesday, the day before this crime is charged to have been, so that they spent one night there, the night of the 8th, and the following day. It is charged that this crime occurred between 8 and 8:15 on the night of the 9th, and that is, Wednesday night. So that the situation as we find it, at 7 or 7:30 on Wednesday night, is this: Dr. Sweet and his wife and two brothers and seven other men, was in his home; the lights are all out, anticipating some possible disturbances, and I say anticipating - - they placed a number of patrolmen in the neighborhood for the purpose of keeping people from congregating. At the time of the shooting Inspector Schuknecht, commanding officer of the Seventh Precinct, and Lieutenant Paul Schellenberger, of the same

precinct, and a citizen, were standing on this corner (indicating) by the light. That is, the school corner -- we might refer to it -- it was a warm summer evening, and these two officers were dressed in the summer uniform, with white hats, and in their full uniform, blue with brass buttons. Witnesses will testify that there were varying numbers of people in the neighborhood. They will all testify that there were no people in front of Dr. Sweet's house, on his side of the street; that is, there were no -- there was no crowd or congregation on this side of the street (indicating), on this side of the street there were from twentyfive to seventy-five people, according to the various estimates; that officers kept moving them all the time, and keeping them moving, not allowing them to congregate. Automobiles were not allowed to stop. They were kept in motion. An officer, a police officer, was stationed in the rear of the house. I might add this: That there is an upstairs porch without any roof on it, on this house, about that position (indicating), and a passageway alongside the garage. Access to this porch is had through the upper hall, the second story hall. You go out through a door at the back of that hall, on that uncovered porch. You might call it a dust porch. A police officer was stationed at this point in this little passageway at the rear of the house. Inspector Schuknecht and Lieutenant Schellenberger and a citizen standing here (indicating); other officers over here (indicating), and elsewhere in the neighborhood. Now, this porch -- we

will have photographs of it, so that you will understand it better - - this porch is not back of the rear line of the house, but the rear porch - - the roof is an over-hanging roof, so that from this rear porch you could see to shoot between those houses, and across the street, by running over or going to the extreme edge of the porch. You will understand that when we get the photographs of the porch. Witnesses will testify that there was no disturbance, that everyone was going about his business; that there was no loud talk; that there were no groups of people together; that no violence was threatened and committed; that suddenly, without any warning, from the front windows of Dr. Sweet's house, there was a volley of shots, followed in a few seconds later by another volley of shots. Now, at that time Leon Briener, the man who was killed, was standing (indicating) in about that position (indicating), talking to a neighbor, who was sitting on the steps of this house. Briener was standing possibly six feet away from the man who was sitting on these steps with his back to Dr. Sweet's house. Mr. Briener himself lives about in here (indicating), I think six or seven houses from the corner, and he was standing at this point with his back to the Sweet house, talking, as I say, to this neighbor, who sat on those steps, the steps of his own house, the house where the neighbor lives. An examination afterwards showed that Briener was shot in the back, the bullet passed clear through his body from back to front, in almost a horizontal position; that is, the bullet travelling almost in a horizontal course.

Witnesses will testify to a bullet in this tree, that is, the tree nearest to Brissner, in front of this house; to two bullets which penetrated the steps on which this citizen was sitting; to another bullet which penetrated the eaves trough of the house above their heads, the same house; to another bullet which passed through the glass door (indicating), leading to the upstairs flat, imbedding itself in the stairs leading to the upstairs flat; to another bullet which passed through the hood of this Ford car standing near the grocery store.

Now, we will have to move to the rear of the house for a moment. The officer stationed in the rear of the house will testify that at the time the shooting was heard from the front of the house, he looked up at this dust porch on the second floor, and observed two of the defendants, out on that dust porch, armed and firing in different directions; one firing in this direction (indicating) across Charlevoix Avenue, in the direction of this apartment house, and the other firing toward Garland Avenue, between the Sweet house and the one directly north of it. We will show you a bullet hole through the over-hang of the roof at that point. We will show you another bullet hole in the siding near the basement, of the house next door. We will show you another bullet hole - - not a hole, but the mark of the ricochet bullet, from that overhanging roof on the Charlevoix side, and with a window directly over it. When the two men on the dust porch were firing, the officer, in performance of his duty, drew his own gun and

fired one shot towards them, which passed well over their heads and through the top of the door leading out on to the porch, and through the doorway and into the plaster on the inside of the house. That was the only shot fired by any person other than the defendants at any time.

We will show you that the bullets which hit Leon Briener caused his death. We will show you that another citizen seated nearby was wounded. We will show you that the bullet which went through the glass door leading to the second flat grazed or missed by a matter of inches a woman with a child in her arms who was standing there, and inside of the door, and who lived at those premises.

We will show you that the front windows of the second floor of the Sweet house, that is, the windows which are directly over the front porch, two of them, were broken; the holes in them were just about large enough for a man to put his fist through, about that size. I don't mean to indicate that is how it happened, but that indicates the size of the two holes, about as large as your fist. We will show you that there was a hole in the front screen of the house on the second floor, the size of a rifle barrel or shotgun barrel. We will show you a similar hole, although not quite so large, in one of the windows on the Charlevoix or south side of the house. Is that right?

(An officer: Screens.)

MR. TOMS: Did I say windows? Well, my mistake. Not through the window at all, but through the screen, the hole both in the front screen and the screen on the Charlevoix

Avenue side; the only broken windows following the shooting were the two in the front bedroom on the second floor. We will show you that immediately following the shooting, Inspector Schuknecht and Lieutenant Schellenberger rushed over to the Sweet house and went upon the steps and entered it, and said, what is the matter? What are you shooting for; that they had some conversation with Dr. Sweet or some of the defendants; were assured that there had been no trouble, that no one was endangering the house, and then were told, "Well, then there won't be any more shooting"; that the police immediately took possession of the house; and took the eleven inmates into custody. That upon a search of the house, in addition to the scant supply of furniture which I have mentioned, and an ample supply of food, - in connection with the food - - I may say that there was a whole ham, a large dish of sweet potatoes, and another dish of spinach on the stove being cooked at the time that the officers got there; at the time that the officers entered, that the pantry was well stocked with dry groceries. You know what I mean by that I am sure.

MR. DARROW: I didn't know but what you meant whiskies?

MR. TOMS: I just want to assure you that there weren't any of those there. Upon a search of the house the police found one shotgun, two rifles, and seven revolvers, ten weapons, consisting - - revolvers consisting of two automatics, one 32-20 revolver, one 38 caliber revolver, and three 38 specials, together with a large

quantity of ammunition. We will show you that when the defendants were being taken to police headquarters in the patrol, another supply of ammunition was found in the patrol when they got to the end of the run. We will show you that when Dr. Sweet was taken to the police station,

MR. DARROW: How is that? Taken to the police station, did you say?

MR. TOMS: Yes.

MR. DARROW: Another supply found where?

MR. TOMS: Another supply was found in the patrol wagon on the floor.

MR. DARROW: Some smuggled in there?

MR. TOMS: I don't know. Now, they were being taken to the police headquarters. Now, I account for it by the fact that they didn't find it all out at the house.

MR. DARROW: Well - -

MR. TOMS: That Dr. Sweet was taken to the police headquarters and seated in a room with other people on the fourth floor of the police headquarters building, that purely by accident Lieutenant Johnson picked up a cuspidor which was right near Dr. Sweet's chair, and noticed that it was unusually heavy, looked into it, and found a double handful of cartridges, and a bunch of keys which Dr. Sweet claimed, both in the same cuspidor. We will show you that out of these ten weapons, there was only one with a clean barrel; there was only one which showed positively that it had not been fired. Mrs. Sweet, at the time the officers arrived - - at the time Inspector Schuknecht

went into the house, which was not more than fifteen seconds after the shooting - - found Mrs. Sweet downstairs preparing a meal, cooking thisham and spinach and sweet potatoes.

MR. DARROW: You mean by downstairs - -

MR. TOMS: I mean on the first floor of the kitchen. The house at this time was absolutely dark. It was not lighted. The shades were down. In front of each window, or in front of a number of windows on the second floor of the house the officers found cigar stubs, chairs drawn up to the window, ashes - - tobacco ashes, burnt matches, and in some cases comforts and quilts spread on the floor in front of the windows, it being the theory of the State - -

MR. DARROW: Well, do you think you ought to state that?

MR. TOMS: It being the theory of the state that the defendants had stationed themselves at these various windows for the purpose of firing. We will show you further that Inspector Bert MacPherson, of the police department, had stated to Dr. Sweet well before this happened - - I am not sure whether it was the day before or prior to his moving in, that he would furnish him any protection upon request; that if he anticipated any trouble, all he had to do was ask for protection from the police, and MacPherson would be glad to send it.

MR. DARROW: Who is Officer MacPherson?

MR. TOMS: Bert MacPherson, Inspector. That

no such request was made by Dr. Sweet at all, but that, nevertheless, Inspector Schuknecht, the commanding officer of this precinct, had felt the responsibility, because it was in his precinct, unsolicited, and the day before, that is, on the 8th, and before Dr. Sweet had moved in, stationed police officers in the vicinity, with instructions to prevent groups from forming and to quell any disturbance, if one should arise; that this police guard was placed there before Dr. Sweet moved in on the 8th, and was maintained up until the time of the shooting.

We will show you that the house was immediately taken possession of by the police after the shooting; that the occupants were placed in custody, taken to police headquarters, and then the house has since been kept in exactly the same situation, as near as is possible, that it was in at the time of the shooting; that it now stands there in almost identically the same situation -- I mean the interior, as it was in at the time that the shots were fired, and if the court will grant permission we hope to be able to take the jury out to see the premises with its own eyes.

MR. DARRON: You have now seen the premises.

MR. DARRON: I do not believe that is a proper statement.

(Interruption.)

MR. TOMS: Well, it is entirely up to the discretion of the court whether the jury will be allowed to view the premises. Now, I haven't --

MR. DARRON: Now --

MR. TOMS: - - asked that, nor has the defense asked it.

MR. DARROW: I think that is a matter that is no part of an opening statement, and should not be made. I think it should be taken from the jury as to what they hope to do, or expect to do, a matter which anybody has a right to do.

THE COURT: I do not believe the statement of Mr. Toms in the language used is improper.

MR. TOMS: I beg your pardon - -

THE COURT: I do not believe that the statement that you made in the language that you used is improper, but do not further dwell on that subject.

MR. TOMS: Very well. The premises are exactly the same, with one exception, there is one small window on the Charlevoix Avenue side of the house, on the second floor, right here (indicating), where the glass is broken, but it was broken some time after the shooting. I don't know, and I am unable to tell you how, but I do know that it was not broken until some time after the 9th of September.

MR. DARROW: You mean you expect to show that?

MR. TOMS: No, I know it. I know it.

MR. DARROW: We won't have to bother with that.

MR. TOMS: No, we won't have to bother with that at all. I am already convinced. Now, with that set of facts, with that set of progressive events, the theory of the State is that no one of these defendants, at the time of the shooting, was in danger of his life or of seriously

b bodily harm; that he had no right to believe that no - - no one of them had no reason to believe that his life or safety was in jeopardy, that the property was not being trespassed upon, that it was - - that there was no justification for shooting - - that no damage to the property or to the persons of any of the defendants was imminent, or was threatened, and if it was, it was not sufficiently serious to justify taking a life. And to go back to the theory as I stated it to you at the beginning of the case, these facts prove, we contend, that these eleven defendants, banded themselves together, and armed themselves with ten deadly weapons, in pursuance of an agreement and understanding between them that in the event of a threatened trespass on this property, or in the event of threatened damage to the house, or to any one of the people in it, one or more of the defendants would shoot to kill; that they actually did that; they did shoot to kill, not even waiting for a trespass of the property or damage to their persons or to the house, and not even waiting for threatened damage to the house or to themselves or threatened trespass. Now, that is the theory on which we claim that this killing was felonious; that it was premeditated; premeditated because they went there with it in mind, and kept it in mind from the time that they went there armed until the time of the shooting; that it was done premeditatedly, with malice aforethought, and in pursuance of what the court will, I anticipate, define to you, as an unlawful agreement or understanding between them. The State's

contention is that a man has no right to kill another simply to prevent a threatened trespass, or that a man has no right to kill another to prevent slight damage or slight bodily harm; that if a man threatens to slap my face, I have no right to kill him. That is the basis of the state's case; that this killing was unwarranted, unjustifiable, unnecessary, and done premeditatedly with malice aforethought. Now, that is the sum and substance of the State's case.

MR. HAYES: If your Honor please, on the statement made on the opening - -

MR. NELSON: Do you want to have the jury excused?

MR. TOMS: You ought to know what it is in your own mind.

(There was a conversation between counsel at this point.)

THE COURT: The jury may be excused.

(Jury excused.)

MR. DARROW: Your Honor, after our consultation, we feel that we have no motion to make at this time. I am sorry to detain the court. I understand we have a right to reserve our statement.

MR. TOMS: Yes, as you please.

MR. DARROW: Your Honor, we reserve our statement, our opening statement until our case.

THE COURT: Very well.

HERMAN CRAFT, called as a witness
in behalf of the People, and being first duly sworn, testi-
fied as follows:

DIRECT EXAMINATION

BY MR. MOLL:

MR. DARROW: Have you got the page?

Q Your full name, please, sir?

A Herman Craft.

Q Where do you live, Mr. Craft?

A 2960 Garland.

Q That is in the city of Detroit?

A Yes, sir.

MR. DARROW: The witnesses in the room, your Honor?

I think they ought to be excluded.

THE COURT: Very well.

MR. MOLL: Of course --

MR. DARROW: I want to move that they be excluded.

MR. MOLL: If the court please, I think that is a
matter that is entirely discretionary with the court, and
we object to exclusion, in any event, of the officers in
charge of the case.

MR. DARROW: These are the ones we are especially
interested in, your Honor. If they have got some one of-
ficer to assist them, that is all right, but we are es-
pecially interested in these officers being present and hear-
ing them.

MR. MOLL: I have reference to Mr. Johnson and
Mr. Hoffman, who are in charge of this case.

THE COURT: Are the two officers both on the information?

MR. HOLL: Yes, I believe they are. They are both on the information, aren't they? Yes, they are both on the information.

MR. DARROW: We want to ask to have all witnesses excluded.

MR. HOLL: Well, it is going to be terribly difficult, if the court please, in the handling of this case in the event that Mr. Johnson and Mr. Hoffman are excluded, and I think it is usually customary, so far as my experience is concerned, to exclude from any such order, the officers in charge of the case.

MR. DARROW: Then, your Honor, I suggest that they testify first. Of course, I don't mean this witness, but after this witness.

MR. HOLL: Well, I am inclined to believe, if the court please, that is a little out of order.

MR. DARROW: We ask to have all witnesses, then, your Honor, excluded while the testimony - -

THE COURT: I take it that the motion ought to be granted to exclude all witnesses, but I believe they are entitled to have someone who is in charge of the case, the officers sit with them. I wonder if you need both of the officers?

MR. HOLL: I think we do, your Honor.

MR. DARROW: I think one is enough. Aside from that, your Honor, they can call those witnesses first.

I have read the testimony, I think, of both of them. They are simply questioned - - cumulative, questions of what they saw there that night.

MR. MOLL: Let me call your Honor's attention to this fact, that most of these witnesses, so far as I know, are eye witnesses, or witnesses who live in the neighborhood, and who have had some connection with the actual shooting. Now, the testimony of these officers, Mr. Johnson, and Mr. Hoffman, if it is introduced at all, will have nothing to do with the res gestae. Now, they are going to testify concerning subsequent events, if they testify at all.

MR. DARROW: I don't understand it.

MR. MOLL: My contention is that most of these witnesses are witnesses to the actual shooting, who saw it and heard it, neighborhood witnesses. Now, these officers are not witnesses. They are attached to the homicide squad. It is their business to investigate criminal cases.

THE COURT: Well, gentlemen, we are - -

MR. DARROW: Your Honor, I do not believe from what he tells me that I need to require.

THE COURT: I do not believe so.

MR. DARROW: I thought they were there. I do not want to ask for anything unreasonable.

THE COURT: All witnesses for both the people and the defense will be excluded from the courtroom during the course of the trial, except the two officers in charge

of the case. All other officers are excluded.

MR. MOLL: May I call your Honor's attention also to the fact that Mr. Kennedy, who is participating in this case on behalf of the State, is also named in the information as a witness. I don't know that it will be applicable for him to testify, or that he will testify, but I also ask that your Honor's order exclude Mr. Kennedy.

MR. DARROW: He wasn't there that night?

MR. MOLL: No.

MR. DARROW: That is all right.

MR. MOLL: Your Honor, I think it will be handy to provide some place; I assumed that some place has been provided for them.

1918 Q.

MR. DARTON: I do not believe we have any witnesses here. We have subpoenaed them for today. If there are any witnesses who were called here by the defense, they would have to retire from the room. I do not believe there are any here.

THE COURT: Allright, you may proceed, Mr. Moll.

Q (By Mr. Moll): How long have you lived in Detroit, Mr. Craft?

A About 36 years.

Q Did you know Leon E. Briener, the deceased in this case, in his lifetime?

A I did.

Q And how long had you known him?

A About four years.

Q When did you last see him alive, if you remember?

A The night before the shooting.

Q Do you remember the date?

A The 8th.

Q Of what month, in what year?

A September.

Q You saw Leon E. Briener then on the evening of September 8th, this year?

A Yes, sir.

Q Where did you see him?

A At his home.

Q And where was his home?

A 2960 Garland.

Q What street?

A Garland.

MR. MOLL: Can you hear him, gentlemen?

JURORS: No.

MR. MOLL: I am going to ask you to speak louder.

Q You say he lived at 2969 Garland?

A 2960.

Q And where was that with reference to the northwest corner of Garland and Charlevoix?

A About seven or eight houses north of Charlevoix.

Q North of Charlevoix?

A Yes.

Q On which side of the street did he live?

A On the east side.

Q Did you later on see the dead body of Leon E. Briener?

A Yes.

MR. HAYES: I assume, where the charge is one of agreement, that the proper order of proof would be to show the agreement first. We do not want to be captious, and we do not want to interfere with any order of proof that the prosecutor may think may fit his case; but I would like under the circumstances to be permitted to reserve the right to move to strike out any testimony that is not connected hereafter by showing this agreement that has been alleged.

THE COURT: I think the testimony that he is putting in at this time is proper testimony.

MR. HAYES: But, it must be connected with some defendant in order to hold the defendant. All I ask is, if it is not connected with some defendant, to reserve the right to move to strike it out.

THE COURT: All right.

MR. HAYES: And if that may apply to other testimony along the same line, I need not make any objection.

MR. MOLL: Along the same lines?

THE COURT: I think you had better make your objections, Mr. Hayes to the testimony as it is presented.

MR. HAYES: Can I make the objection as to each witness, and this line of testimony? It seems rather foolish to object to each question on that ground, where the principle is clear.

THE COURT: Each witness.

MR. HAYES: Each witness?

THE COURT: Yes.

MR. MOLL: It seems to me, if your Honor please, the logical thing to do is to prove the corpus delicti, and show that some one was shot, before we show who shot him. Read the last question.

(Last question read)

(By Mr. Moll): Where did you see him?

A At the Receiving Hospital, and Morgue.

Q And at the Morgue, did you say?

A Yes, sir.

Q When you speak of the Morgue, you refer to the Wayne County Morgue here in the city of Detroit?

A Yes.

Q On what date did you see the dead body of Mr. Briener at the Morgue?

A At the date of the inquest.

Q Now, when was that?

MR. DARROW: Suggest it to him, the date.

Q (By Mr. Moll): When was that with reference to the shooting?

MR. DARROW: I would suggest it to him. It won't make any difference.

Q I will ask you whether or not it was on September 10th, the day following the shooting?

A I don't know what the date was. I know it was the official date that the examination was made.

Q Do you remember the shooting?

A What is that?

Q Do you remember the shooting?

A I was not there at the time of the shooting.

Q For the sole purpose of refreshing your recollection, and no other purpose, I will ask you if this was your testimony given at the examination held in the Recorders Court on the 16th of September this year, before the Hon. Judge John Faust: (Reading); I believe

Q. Did you later on see the dead body of Leon Briener?

A. I did.

Q. When?

A. County Morgue.

Q. County Morgue, in the City of Detroit?

A. Yes, sir.

Q. When?

A. At the - - is that the inquest?

Q. No, it was the post mortem.

A. Post mortem.

"Q. Do you remember the date of that?

A. It was the 10th of September."

Q Now, does that refresh your recollection, Mr. Craft -

A It does.

Q - as to whether or not you saw the dead body of Mr. Briener, in the County Morgue, the 10th of September, this year?

A It does.

MR. DARROW: What was the date? If you say that is the date, we won't object to it.

(By Mr. Moll): And you say then that you saw the body there on the 10th of September?

A Yes, I did.

Q Do you remember who was present at the time?

A Dr. Ryan, and Bernhard Wetzell, and William McBride.

Q Did you, in the presence of Dr. Ryan, make an identification of the dead body as that of Leon Briener?

A I did.

MR. MOLL: I believe that is all.

MR. DARROW: No cross examination.

(No cross examination)

MR. DARROW: That is all.

THE COURT: You are excused.

THE WITNESS: May I be excused for the day?

THE COURT: Yes.

(Witness excused)

THE COURT:

THE COURT:

I will.

D R. W I L L I A M D. R Y A N, was there-
upon called as a witness on behalf of the pro-
secution, and having been first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q What is your full name, sir?

A William D. Ryan.

Q What is your business or profession?

A Physician and surgeon.

Q State whether or not you were one of the medical examiners for the county of Wayne on the 10th of September of this year?

A I was.

Q And on that date, whether or not you performed an autopsy or post mortem examination on the dead body identified to you as that of Leon E. Briener.

A I did.

Q By whom was the identification made?

A Herman Craft, 2960 Garland, and Berthold Wetzell, 2960 Garland; and William B. McBride, 1245 Lakepointe.

Q Where and when did you perform that post mortem examination or autopsy?

A At the Wayne County Morgue, City of Detroit, on the 10th day of September, 1935, between the hours of 11:30 A. M. and 12:30 P. M.

Q Did you make an autopsy report?

A I did.

Q At the time?

A Yes, sir.

Q Have you it with you?

A Yes, sir.

Q I will ask you what wounds or injuries your examination of the body disclosed?

MR. HAYES: If your Honor please, may I ask that this testimony be taken subject to a motion to strike out, in the event it is not connected.

THE COURT: Yes.

A Round penetrating wound; entrance, level of the last lumbar vertebra, and one inch to the left of same.

MR. DARROW: May I ask you to indicate on yourself?

MR. MOLL: I was going to ask him. I am going to ask him to indicate on himself after he finishes.

A Passing through the abdomen and making the exit three inches below and two inches to the left of the umbilicus, or belly button.

Q Will you step up here please and indicate on me the point of entrance of that bullet?

A The entrance was about there, and the exit was about here (indicating on body of Mr. Moll).

MR. DARROW: Have you got the side right? The left side?

A Yes, sir.

MR. DARROW: All right.

MR. MOLL: You say that is two inches to the left of the umbilicus?

A Yes.

Q Here it is right here.

A About there. Right here (indicating).

MR. DABROW: Pretty near straight.

A Almost on a level.

MR. MOLL: You have got one hand practically over my left hip, and the other is about the same distance from the ground, and about two inches from the left of my umbilicus or the belly button?

A Yes.

MR. MOLL: Thank you, doctor.

Q Now, what, in your opinion, caused the death of the deceased?

A Internal hemorrhage, following gunshot wound of the abdomen.

Q In giving me, as you did, the point of entrance, and point of exit, I presume that is the result of your tracing the course of the bullet through the body?

A It was.

MR. MOLL: Cross examine.

CROSS EXAMINATION

BY MR. DABROW:

Q It went straight through the person?

A Practically on a level.

Q On a level both up and down and side wise?

A Yes, sir.

MR. DABROW: That is all. There is another question I want to ask you, doctor.

Q You never found the bullet?

A I did not.

Q As far as you know, it has not been found?

A As far as I know it has not been found.

MR. DARRON: All right, that is all.

MR. MOLL: That is all.

(Witness excused)?

MR. TOMS: Inspector Schuknecht.

NORTON: SCHUKNECHT, was thereupon called as a witness on behalf of the prosecution and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Your name is Norman Schuknecht?

A Norton.

Q You are an inspector of police of the Detroit Police Department?

A I am.

Q And on the 9th of September, in what precinct were you detailed?

A The Fifth Precinct, known as the McClellan Avenue Police Station.

Q Were you the commanding officer in charge of that Precinct, on the 9th of September?

A I was.

Q Is the corner of Charlevoix and Garland in your Precinct?

A It is.

Q And on the night of September 9th, around eight o'clock, between 8 and 8:30 o'clock, will you state where you were?

MR. DARRON: On the 9th did you say?

MR. TOMS: On the 9th, yes.

THE WITNESS: Between 8 and 8:30?

MR. TOMS: Yes.

A About shortly after 8 o'clock, I and Lieut. Schellenberger, and my brother-in-law, Otto Lemhagen, were standing at the southeast corner of Charlevoix and Garland.

Q Whose brother-in-law?

A My brother-in-law.

Q Your brother-in-law?

A Yes, sir.

Q Will you step over here and indicate -

MR. DARRON: Haven't you got a good plat here with the measurements?

MR. TOMS: Yes, we will have it here tomorrow.

MR. DARRON: All right.

Q Will you state whether or not I indicate the proper place as to where you and Lieut. Schellenberger and Mr. Lemhagen were standing, as you testified?

A What do you call that (indicating)?

Q That is north; that is Garland Avenue; this is Charlevoix.

You said the southeast?

A Southeast corner.

Q Southeast corner?

A Yes.

Q Well, this is the southeast corner on this map (indicating

on blackboard).

A All right, yes.

Q This is the school house?

A Yes.

Q That is the corner where you were standing (indicating)?

A Yes.

Q Now, where on that corner were you standing?

A Right directly on the corner, at the crossing there, the intersection there.

Q Is there an electric light pole at that corner?

A There is.

Q How near to that pole were you standing?

A Practically alongside of it, right close to it.

Q That is, diagonally opposite the house on the northwest corner owned or purchased by Dr. Sweet?

A Yes, sir.

Q Is there an electric light suspended from the top of this pole that you were standing near?

A Yes, sir.

Q Is it a street arc lamp?

A Yes, sir.

Q And suspended by a horizontal arm at the top of the pole?

A Yes, sir.

Q How were you dressed that night, Inspector?

A In uniform.

Q Was your uniform the same or similar to what you now wear?

A The same thing with the exception of the cap; I had on a white cap.

Q What kind of a cap did you have on?

A I had on a white summer cap.

Q Is the whole cap except the visor, white?

A Except the visor and the braid. The top of it is all white;

a summer cap, down to here (indicating), the braid is the same as on this cap, and the visor is the same.

Q By the "braid" you mean the band that goes around?

A Yes, sir.

Q How was Lieut. Schellenberger dressed?

A The same way.

Q Why were you there, Inspector?

A Why were we there?

Q Yes.

A For precautionary purposes, to prevent anything that might arise.

Q How long had you been there?

A I had got there-

Q What time on the 9th of September did you first go to that vicinity?

A On September 9th?

Q Yes, that was Wednesday night, the night of the shooting?

A I first stopped there after I had left my home at dinner, and got there about 6:30, and I left there then and went to the station and met Lieut. Schellenberger there, when I got back there about 7 o'clock or maybe a few minutes after.

Q Did you stay there until after the shooting?

A I did.

Q Did Lieut. Schellenberger stay there until after the shooting?

A Yes, sir.

Q Where did you meet Mr. Lemhagen?

A We were standing there at the corner when Mr. Lemhagen came up and spoke to us.

Q Were there any other police officers in that vicinity that evening?

A There were.

Q How many?

A There were eight of them all told in that vicinity at that time.

Q How did they happen to be there?

A They were stationed there by me, ordered to be there, stationed around Mr. Sweet's home.

Q Now, MR. DARROW: That eight includes you?

A What is that?

Q MR. DARROW: That eight includes you?

A No, it don't.

Q (By Mr. Tom): Did it include Lieut. Schellenberger?

A No.

Q There were eight patrolmen, you mean?

A Eight patrolmen.

Q Were they all in uniform?

A No; there were six of them in uniform - five of them in uniform and three in plain clothes. There was also a sergeant there.

Q One of the eight was the sergeant?

A No, sir, there was eight patrolmen.

Q Eight patrolmen, one sergeant, one lieutenant and one in-

A Yes, sir.

MR. DARROW: That made 11?

A Yes, sir.

Q (By Mr. Toms): 11?

A Yes, sir.

Q Now, will you describe the conditions around that corner when you first got there at 6:30, with especial reference to crowds congregating, noises or disturbances, shouting or any other thing that savored of a breach of the peace?

A There wasn't anything going on at 6:30 o'clock when I got there; everything was quiet.

Q Were there people on the streets?

A People were walking up and down, yes.

Q Were they congregating?

A No, sir.

Q What were your instructions to the officers stationed there?

A To prevent any breach of the peace or any disturbance of any kind; to protect life and property.

Q Did you give them any more definite instructions as to what they should do? For instance, I suggest with reference to motor cars, did you give them any instructions?

A With reference to motor cars - you mean after 6:30 or what time?

Q Yes.

MR. DARROW: Lead him to it, if you want to.

MR. TOMS: Yes, after 6:30 or at any time while they were there. What were the officers told to do?

A At about 7:30 I sent for two men to divert traffic on

Garland Avenue, at Waterloo; one man stationed at Waterloo and another man at Goethe and Garland.

Q Now, which direction are those two streets from Garland?

A Waterloo was south and goethe is north.

MR. DARROW: How far?

A One block.

MR. DARROW: How far?

A One block.

Q (By Mr. Toms): Now that was some time before the shooting?

A That was about 7:30.

Q More than a half hour before the shooting?

A Yes, all of that.

Q You stationed men, I believe it was, both north and south, to divert automobile traffic from going up Garland Avenue?

A Yes.

Q Allright. What other instructions did you give your officers?

A I had informed them in the station house - in fact, practically all of the men when they were at roll call, - that every man would have to act impartially; that we were there to preserve peace and order, and that man, Dr. Sweet could live there, if we had to take every man in the department to protect his home; that we wanted no recurrence of the happening on the west side.

Q Did you tell your officers what to do with pedestrians?

A Keep them moving; let no one congregate.

Q That is what I am trying to get you to say, Inspector.

Were those your orders to your officers?

A Yes, sir.

Q Now, when you stood there on the corner, -

MR. DARROW: Just a second now. Would you mind asking when those orders were given?

Q (By Mr. Toms): When were those orders given?

THE COURT: Just a minute, I wish you would address your remarks when there is some controversy, to the Court, instead of across the table to each other.

MR. DARROW: That was one thing that I knew he was wanting to ask. If there had been anything to object to, I would have done that. I will do that.

THE COURT: We will take a recess at this time until a quarter of twelve.

(Short recess taken)

Q (By Mr. Toms): You have told us what your instructions to your officers were. As you stood on the corner, as you have testified, what were your officers doing?

A They were around the house. One patrolman was in the alley, in the rear of Mr. Sweet's home; one patrolman was on the east side of Garland Avenue, directly across from Mr. Sweet's home; and one patrolman was on the south side of Garland Avenue, on the side of the house.

Q You said the south side of Garland?

A The north side of Charlevoix; the south side of his house.

Q Let us mark these spots as you mention them. One patrolman was in the alley, in the rear of the house?

A Yes.

Q One patrolman was across Garland Avenue, directly across from Dr. Sweet's house?

A Yes, sir.

Q One patrolman was on the north side of Charlevoix, just south of Dr. Sweet's house?

A Yes, sir.

Q All right.

A Another patrolman was in between Dr. Sweet's home and in front of his house, between his home and the house north of him.

Q Well, in between the two houses?

A In between the two houses, and also in the front. That was his detail, there.

Q In between, and in front?

A Yes, sir.

MR. DARROW: Now, does he mean in front, on Garland?

Q (By Mr. Tombs): In front, on Garland Avenue?

A In front on Garland Avenue, yes, sir.

Q We will put a man right at the corner there (indicating on blackboard). Any others that you can place?

A Yes, sir. I had a uniform man, and a plain clothes man stationed at the southeast corner of Garland and Charlevoix, on Garland just south of Charlevoix, with a Ford patrol.

Q Well, that is an ordinary Ford touring car, is it?

A A Ford touring, what we call a Ford patrol car. And I had two other men in plain clothes that simply walked around the neighborhood to see what was going on around the neighborhood.

Q Does that cover the detail?

A With the exception of the two men that were detailed at

that time to divert traffic at Goethe and at Waterloo.

Q At the time you came back with Lieut. Schellenberger from the station about 7:30 - is that correct?

A It was about 7 o'clock.

Q About 7 o'clock; did you remain in that neighborhood from that time until the time of the shooting?

A I did; I don't know anything else.

Q At any time during that period, was there a crowd congregated?

A No, sir, there was not.

Q How many people were there on the west side of Garland Avenue near Dr. Sweet's house at any time?

A On the west side of Garland?

Q That is the side that Dr. Sweet's house is on?

A Nothing more than the ordinary person walking by the place. I don't believe there was more than two or three at a time that walked by.

Q At any time was there as many as ten people gathered in one group in that place?

A In front of Dr. Sweet's home?

Q Yes.

A No, sir, there was not.

Q Were there as many as five?

A No, sir.

Q Were there any that stopped and stood there for more than half a minute?

A No.

Q Now, on the other side of Garland Avenue, on the east side, what were the conditions with regard to the people congre-

- getting?
- A Well, sir, the house directly across from Dr. Sweet's home - I dare say that were ten or twelve people out in front of his place, that is, on his lawn and sitting on the porch.
- Q What were they doing?
- A Simply standing there and talking as far as I know, I didn't see them doing anything.
- Q Did you at any time see anything thrown at Dr. Sweet's house?
- A I did not.
- Q Did you hear any shooting or yelling?
- A I did not.
- Q Did you see people crossing Garland Avenue towards his house?
- A No, sir.
- Q Did you see any one armed with clubs or weapons?
- A I did not.
- Q At any time?
- A No, sir.
- Q Did you notice an automobile parked, a Ford car parked directly across from Dr. Sweet's house at the side of the grocery store?
- A There was a car parked there, the one that had the bullet shot through it, but I don't think it was a Ford. To the best of my recollection I don't think it was a Ford car.
- Q Well, I may be wrong on that. It was a car, was it?
- A There was a car there, yes.
- Q Was it parked there all of the time from 7 o'clock on, do you recall?
- A I am quite sure that it was there all of the time.

Q Are you sure that it was there at the time of the shooting?

A Yes.

Q What kind of a night was it, Inspector, I mean the temperature particularly?

A Very warm.

Q A very warm night?

A Yes, sir.

Q Were men out on the streets without their coats on?

A A lot of them; there was women and children; women and children were laying over on the lawn in the school yard.

Q It was then an unusually hot night?

A It was.

Q Well, now, about 8:15 what happened?

MR. HAYES: I object. If your Honor please, may I make the same objection here? And if your Honor overrules the objection, may I ask to reserve a motion to strike out, if the matter is not hereafter connected with the defendants or any of them, - that is, to strike out as to those with whom it is not connected?

THE COURT: Yes, I certainly will entertain such a motion as that.

Q (By Mr. Toms): About 8:15, when you and Lieut. Schellenberger and Mr. Lemhagen were standing on the southeast corner, what happened?

Nothing happened about 8:15; about 8:25 when the shooting occurred.

Q Well, I mean leading up to that. You were standing there; and what happened shortly after 8:15, between 8:15 and

8:30?

A When suddenly a volley of shots were fired out of the windows from Dr. Sweet's home.

Q State whether or not you could see anything at that time, in looking at Dr. Sweet's house; I mean, could you see the shots fired?

A Could see the fire, the fire of the shots coming out of the windows.

Q You could see flashes of guns?

A Yes, sure.

Q What is your best judgment as to the number of shots that you heard fired?

A To my best judgment I would say probably 15 or 20 shots, that I thought.

Q Did you see flashes of fire from any other place except the front of the house?

A From the side windows, also.

Q That is, which side do you refer to?

A The Charlevoix side.

Q South side of the house?

A South side of the house.

Q Were there flashes from the first or the second floor?

A All from the second.

Q The second floor?

A Yes.

Q On both sides of the house?

A Yes, front and side.

Q And then what happened? Were those the only shots you heard?

A They were all fired simultaneous.

Q State whether or not you heard another volley later?

A I did.

Q After those shots were fired, you say around 15, you should judge? --

A 15 or 20 shots.

Q 15 or 20 shots?

A Yes, I would say.

Q What did you do?

A I immediately told Lieut. Schellenberger to call for assistance. Then I went over to Dr. Sweet's home, and got up on his front porch and rang the doorbell. Some one asked "Who is there?" I said "A police officer." He opened the door. I went in. Dr. Sweet was the man that opened the door. Do you want me to explain just what I said to Dr. Sweet?

A Yes.

Q If the court hasn't any objection, I said -

MR. DABSON: Just a minute. Of course, anything that Dr. Sweet said could not be binding on anybody, but him, because it was after the confirmation of the matter and it would not bind anybody but him, or anybody else who might have heard it. I just want to call the court's attention to that.

THE COURT: Well, I think that is correct.

MR. TOMS: All right, what did you say?

THE COURT: Whatever was said by Dr. Sweet at this time would only be binding upon Dr. Sweet. The jury will so understand it.

A I says to Dr. Sweet, I says, "Jesus Christ, what in hell are you fellows shooting for?" "Why," he says, "They are ruining my house." And I says "What have they done?" I says, "I have been here right along." I says "I haven't seen anyone throw anything, and I haven't seen no disorder." I said "I don't know why you men are shooting." He made some remark then about Inspector McPherson not being there -

MR. DARTON: I object to that unless he states what was said.

THE COURT: Just a minute.

Q (By Mr. Toms): Can you say what he said?

A Yes.

THE COURT: Just a minute. Objection sustained.

Unless you can tell definitely what was said, I will have to strike it from the record. You tell just exactly the conversation?

A He said Inspector McPherson was not around, and that they had no trouble the night before. I says "Doctor, I was in charge the night before, and I am also in charge tonight." Then he says "There will be no more shooting." With that, I left the house, and when I got outside, I was informed by some officer, just who he was I can't say, that two men had been shot. Shortly after the flyer from Headquarters and the reserve flyer arrived on the scene. Detective George Fairbairn was the first man that I saw coming from headquarters. I says "George" I says, "There have been two men shot here, and we have got to get these people and lock them up." So we immediately went to the front door -

MR. DARTOW: Just a minute now.

MR. TOMS: It may be stricken out; no objection.

MR. DARTOW: The jury will disregard it?

THE COURT: Yes, the conversation.

MR. TOMS: That is, the statement about Detective Fairbairn?

THE COURT: The conversation between the police officer and yourself is stricken from the record.

(By Mr. Toms): Tell what you did, officer?

THE COURT: Just a minute.

MR. DARTOW: I think the officer ought to be instructed -

MR. TOMS: I do not think he needs it.

MR. DARTOW: Very likely he does not. Conversations between you and somebody else, excepting people in the house, are not competent.

THE WITNESS: All right, sir.

THE COURT: It will be stricken from the record.

A We went into the house and placed the occupants under arrest.

(By Mr. Toms): State whether or not the occupants of the house were the 11 defendants here in court?

A They were.

Q Who went in the house with you, Inspector?

A Detective Fairbairn, Sergeant Mahlmeister, who was in charge of the reserve flyer, several of his men, I would not say how many, and later on Lieut. Hayes come in the house.

Q From the first precinct?

A Yes.

Q From headquarters?

A Yes, sir.

Q Now, what did you find in the house? Describe in detail the condition of the house as you found it?

A At that time?

Q Yes.

A Well, sir, I didn't go anywhere through the house at that time.

Q Did you place the defendants under arrest?

A Yes, sir.

Q By the way, the northwest corner of Garland and Charlevoix Avenues is within the corporate limits of the city of Detroit, is it?

A It is.

Q Did you go to headquarters with the prisoners?

A No, sir, not at that time.

Q You stayed on the scene?

A I did.

Q How long?

A I think I got down to headquarters somewhere around one o'clock, I believe.

Q And from the time of the shooting, until you did go to headquarters, did you stay in this vicinity?

A I did.

Q Did you stay in or near the Sweet house?

A I stayed right around it all of the time.

Q Were some of your men with you?

A Yes, sir.

Q How were the prisoners taken to police headquarters?

A The auto patrol was backed up into the alley. They were all taken out of the rear, put in the auto patrol, and several officers on the back of the auto patrol when they left to go to headquarters.

Q And how did Mrs. Sweet go down?

A She was taken down separately by some one; who that was I cannot say; I believe, though, that it was one of the detectives; somebody took her down separately anyway.

Q And later you went down to headquarters yourself?

A I went down to headquarters, I think it was about one o'clock when I got there.

Q At the time these shots were fired, and previous to that, state whether or not the lights were turned on in this house?

A The house was dark.

Q It was dark?

A It was dark. There was not a light to be seen in the house.

Q Did you see anyone on the porch of the house at any time?

A I did about seven o'clock. When I got back there at seven o'clock, I seen two colored men sitting in the hammock on the front porch.

Q What did they do?

A Just sitting there.

Q Well, I mean finally, where did they go?

A They went inside; they disappeared. I didn't see them do in.

Q You didn't see them go in?

A No.

Q But they disappeared?

A Yes.

Q Did you assist in searching the house after the defendants had been sent down town?

A After they had been sent down town?

Q Yes.

A The house was searched practically while they were all there. The guns were confiscated while the prisoners were there.

Q But, the examination of the premises continued after they had left, did it not, by the officers?

A Yes, sir.

Q Did you assist in the search of the premises, while the prisoners were there?

A No. I stayed downstairs with them.

Q So that you personally did not find the guns?

A I did not.

Q Did you go upstairs at all, Inspector?

A Yes, I think I went upstairs there after the prisoners were gone. I am quite sure it was after the prisoners were gone that I went upstairs.

Q When you first went to the door of the house, did you see Mrs. Sweet?

A Just as soon as the doctor let ^{me} in, I saw Mrs. Sweet.

Q Where was she at that time?

A Well, I dare say she was probably six or eight feet from him?

Q On the first floor?

A On the first floor, yes.

Q In what room was she, do you know?

A I would call that the living room, just as you enter in the front door.

Q When you first went in and talked to Dr. Sweet about the shooting, did you go any further than the front room, the living room?

A I believe I went as far as the dining room.

Q As far as the dining room?

A To the next room there.

Q You did not go through the house, however?

A No, I did not.

Q Did you see other persons in the house at that time, the first time you went in?

A Yes, sir, there was probably five or six other men down stairs then.

Q Downstairs?

A When they left me in the house.

Q Did you see anybody come down the stairs while you were there?

A What do you mean, the first time I was in there?

Q The first time?

A I cannot just recall whether I did. I am not positive of that.

Q Well, when you were in on the second occasion, did you see anyone come from upstairs?

A Oh, yes, officers were bringing the parties down.

Q I see.

State whether they were colored persons who were

being brought down?

A Yes, sir, they were.

Q And were they these defendants?

A They were.

Q How was the house furnished, at least the part of it that you saw, Inspector?

A The part that I saw downstairs, I saw a few chairs, and a very small table, probably three by three, it appeared to me as though it might be used for playing cards on, that is what I would say it was, a card table.

Q With folding legs, is that the type - a green type and folding legs?

A I would not say whether it had a green top, not positively, but it may have been.

Q It was not a dining room table, was it?

A No, it was.

Q Was that all of the furniture that you saw downstairs?

A I saw - I don't know whether you would call it a mattress, or whether it was the bottom of a porch swing, in the living room there.

Q What part of the living room was it, and where?

A Right up close to the fire place and front window.

Q Is that all of the furniture that you can recall seeing downstairs?

A At that time it was.

Q Did you notice a small closet or coat room off the front hall?

A Yes, there is one there.

Q Did you go into it, or did you observe it?

A Not immediately after the shooting. I think that was all done after the prisoners had been taken -

Q That night?

A Yes, that night.

Q What was in it, do you remember?

A I can't state definitely what was in there.

Q Do you remember whether the shade was up or down?

A No, I would not say whether it was up or down.

Q From the time of the shooting until you left, - which must have been after midnight - was it?

A Yes.

Q Was anyone allowed to enter that house except the police officers?

A No, sir.

Q Was the house left intact just as it was?

A Yes, sir.

Q Until you left?

A Yes, sir.

Q And when you left, was it left under guard?

A It was.

Q Well, with what instructions as to persons entering it?

MR. DARROW: Just a minute.

Q (By Mr. Tom): - or as to allowing anyone in there?

MR. DARROW: Just a minute. I object to "instructions."

THE COURT: Oh, well, it would be proper

if they were given by himself.

MR. DARROW: Well, the question is, what was done, not what he instructed the people to do, but still I don't care much about it, your Honor.

THE COURT: All right.

MR. DARROW: Let it go.

THE COURT: Very well.

Q When did you next go back to the house, inspector, after you went down town?

A The following morning.

Q Was the house under police guard at that time?

A It was.

Q Has a guard been maintained over it ever since?

A There has.

Q Thenext morning, did you go into the house?

A I did.

Q Did you find it in the same condition as when you had left to go down to headquarters the night before?

A To all appearances it was; I didn't see any change.

Q when was the last time you were in the house, when was the last time, how recently have you been there?

A Inside of the house?

Q Yes.

A I believe I was in there with Lieut. Johnson two or three weeks ago, I can't just recall the exact date.

Q About that long ago?

A Yes.

Q And at that time, state whether or not the house was in substantially the same condition as when you left it on the night of the shooting?

MR. DARROW: Well, I object to that. It is a comparison, which is general. He wants to go over it, if it is important enough, to state what was in it, the second time, I do not mind that.

THE COURT: Objection sustained.

Q (By Mr. Toms): Going back to the condition of the house, downstairs, did you go into the kitchen?

MR. DARROW: Excuse me, you are now referring to this night?

MR. TOMS: Yes, I mean on the night of the shooting, immediately afterwards.

A Yes, I was in the kitchen.

Q What did you find there?

A What I saw was a roast of some kind standing on the stove.

Q Was it hot?

A I didn't feel it.

MR. HAYES: Taste it?

MR. TOMS: Probably so.

Q Other food being cooked?

A Not that I noticed.

Q Did you go into the pantry off the kitchen?

A No, I did not.

Q Did you go into the basement?

A No, sir.

Q Now, upstairs, what did you find, in the way of house

furnishings, for example?

MR. DARROW: Just a minute. I do not know what time he is referring to, your honor; that is all.

THE COURT: Be specific.

Q (By Mr. Tomp): Well, I refer to your first inspection of the house immediately after the shooting.

MR. DARROW: He did not go upstairs, he said.

THE COURT: On the 9th, the night of the 9th?

MR. DARROW: I was thinking the officer said he did not go upstairs; maybe he did.

Q Did you go upstairs?

A After the prisoners were gone.

Q All right. Now, what condition did you find up there?

A We found a bed up there in the front room, facing Garland Avenue; some great bag, leather bag, with a lot of women's clothing in it, and I believe there was a dresser or something in that room.

Q Was there any rug on the floor?

A No.

Q Or any chairs?

A That I can recall in that room - I don't remember of a rug being in the rooms.

Q What about the other rooms?

A Practically every room had a chair in it.

Q Yes.

A I didn't see any other furniture.

Q No other furniture?

A No, sir.

Q Can you tell us where the chairs were placed in the rooms, if you recall?

A No, I cannot definitely. They were all in there, in different positions.

Q Well, all right. Did you find anything on or near the window sills?

A We found cigarette ^{butts} and cigar butts practically in every room, and ashes on the floors.

Q Were there rugs in the various rooms upstairs, in any of the rooms upstairs?

A No.

Q Were there any beds with the exception of this one in the front room?

A The only bed that I seen in the place.

Q Did you go out onto the porch at the end of the upstairs hall?

A Yes.

Q In the rear?

A Yes.

Q That is an uncovered porch, is it?

A It is.

Q No roof on it?

A No.

Q There are two white posts at the outer corners of the porch?

A One on each corner.

Q One on each corner?

A Yes.

Q And you get onto that porch through a doorway at the end of the second floor hall?

A Yes, sir.

Q Inspector, did you notice the windows fronting on Garland Avenue in the bed room on the second floor?

A I did.

Q What condition were they in?

A There was one light of glass, probably four inches by 12 inches, that had two holes in it.

Q Was that in the upper or lower sash?

A In the upper sash.

Q How large were the holes?

A Oh, I doubt whether you could stick your hand through them.

Q Well, about that size, then, the size of a baseball perhaps?

A They were not any bigger.

MR. DARROW: Have you had it measured?

MR. TOMS: What is it?

MR. DARROW: Have you had it measured?

MR. TOMS: We have had it photographed.

Q Did you go across Garland Avenue to where Briener was shot?

A What night?

Q That night?

A No, sir.

Q You did not see Briener himself?

A I did not.

Q Did you see Deputy Superintendent of Police, James Sprott

Q in that neighborhood that night?

A I did.

Q What time did he get there, that is, before or after the shooting?

A He was there before the shooting and left before it occurred.

Q MR. DARROW: And left before what?

A MR. TONGE: Before it occurred, before the shooting occurred.

Q How long before?

A Possibly a half an hour.

Q How long did Mr. Grott stay there?

A He may have been there anywhere from 15 minutes to half an hour.

Q Was he talking to you and Lieut. Schellenberger?

A Yes.

Q Did he get around the neighborhood at all?

A Not to my knowledge. He may have been around before we got there.

Q Not while you saw him?

A No, sir.

MR. TONGE: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q How do you pronounce your name, Officer?

A Schuknecht.

Q Schuknecht. That is a new name to me.

A Yes.

Handwritten notes and signatures at the bottom right of the page.

Q How long have you been on the police force, officer?

A 24-1/2 years.

Q Did you start in as a patrolman?

A I did.

Q When did you become an officer? Oh, I do not ask you to pin it down to the date, or even the year; just estimate it as near as you can.

A Well, I was promoted to a sergeant when I was in the traffic department -

Q Well, sergeants don't count for so much, do they? When did you get a higher office?

A I got a lieutenantcy about a year after.

Q Well, about when was that?

A Well, I was a lieutenant about four years, and I was made an inspector.

Q You were made what?

A An inspector.

Q When were you made an inspector?

A In the fall of 1919, I am not quite sure.

Q I am not going to check you up on that. So just give me your best judgment.

A I think it was 1919.

Q In the fall?

A Yes.

Q And you are still an inspector?

A Yes.

Q What is the next highest office over you, the next higher?

A Well, there are chief inspectors, deputy superintendents,

and superintendents.

Q Well, chief inspector, deputy superintendent, and superintendent - these are the only grades above you?

A Yes, sir.

Q All right. And when did you first learn that Dr. Sweet was going to move into this house?

A On the night of the 7th. Labor Day was on the 7th. Just before I was leaving headquarters, I was out there at headquarters that night.

Q That is close enough. From whom did you learn of it?

A From Lieutenant Hayes.

Q Now, if I interrupt you, and you think you ought to tell more, why, let me know. I was trying to hold it down to a direct answer, but if you want to say more, well, all right. You learned that from Lieutenant Hayes?

A Yes, sir.

Q Let me see. His official position was lieutenant?

A A lieutenant of detectives.

Q And he hasn't had been a long time in the department, hasn't he, the same as you?

A Well, I have known him for a number of years being in the department.

Q And he told you that Dr. Sweet had bought that house. And did he tell you when he was going to move in?

A He did not tell me about buying the house. He told me Dr. Sweet was going to move in that house the following morning.

Q Did he tell you how he knew?

A NO, NO.

Q Do you know whether he knew Dr. Sweet? Do you know?

A I don't know.

Q Did you know him?

A Know who, Dr. Sweet?

Q Yes.

A No, sir, the first time I seen him was thenight of the shoot-
ing.

Q Did you ever hear of him?

A I heard of him previous to this, that he had bought the
house.

Q When did you hear that he had bought the house, first?

A That may have been a month before that.

Q From whom did you hear it?

A I believe I was informed of that at headquarters. Just
from whom I could not say.

Q And the conversation about it? Without stating what it
was, any special conversation in reference to it, at the
time you were informed of it - or was it just a casual
remark?

A I was told that Dr. Sweet had bought that -

Q No, I am not asking you to repeat the conversation. You were
then informed or told that he had bought that house?

A Yes.

Q Now, was there any special conversation in connection with
it?

A I was told to find out, to try and find out when he was going
to move there.

Q Well, did you try to find out?

A Yes, I did.

Q From whom?

A From Mrs. Smith, the party that was occupying the house at the time.

Q You did not communicate with Dr. Sweet?

A No, sir, I did not.

Q You knew that he was a physician in the city of Detroit, and a colored man?

A That is what I was told.

Q And that he had been in the army; you probably know that?

A I hadn't heard of that.

Q All right; you did not at least communicate with him about it?

A I did not.

Q You did with Mrs. Smith, from whom the house was purchased, did you?

A I did.

Q And asked her when he was going to move in?

A Yes, sir.

Q Did she tell you?

A She did not know exactly.

Q Did you leave any directions as to being notified when he was going to move in?

A I did. I sent detectives later on to interview Mrs. Smith and they informed me that they were told that he was going to move into that house some time after Labor Day.

Q That is all, is that correct?

Q Did you get any other information about it, that you now recall, about his moving in?

A No, only from Lieutenant Hayes.

Q Well, you have stated that. I mean aside from what you have stated? And in none of this period of a month did

you talk with Dr. Sweet?

A I did not.

Q Or his family?

A No, sir. I did not look to see if he was

Q Any of the family?

A I did not. I was not in the neighborhood.

Q You sent no one to him yourself?

A I didn't know where the man lived.

Q Well, then, you did not send anybody to him, did you?

A No, sir, I did not. I did not look in the neighborhood.

Q Most likely you could have found him if you had tried, could you not?

A Well, sir, I understand that the detectives from headquarters were taking care of that part of it.

Q No, never mind that. You could have found out if you had tried probably, couldn't you?

A Probably I could have.

Q Yes.

A But that was being taken care of by some one else.

Q Was any report made to you by anybody, who had talked to Dr. Sweet about it, - without saying what it was - did any officer report to you?

A Not that I can recall.

Q And you did not direct any officer to find out?

A No, I did not.

Q All right. Did you consult anybody, or receive directions from anybody as to what you were to do in reference to his moving in, or did you act entirely on your own judgment?

A I got instructions from deputy superintendent Spratt.

Q When?

A The morning that I heard he was going to move into the place, I went down to see the deputy.

Q Well, now, your answer maybe is a little ambiguous. You mean the morning the call came to you, or the morning you understood he was going to move?

A That was the same morning.

Q It was?

A It was at one o'clock in the morning that I was told that Dr. Sweet was going to move into that place. That same morning I went to Superintendent Spratt and told him that Hayes had informed me that Dr. Sweet was going to move into that house.

Q Now, that was on the morning of the 7th?

A The morning of the 8th.

Q That was the same morning he did move in, was it not?

A Yes, sir.

Q All right. Did you receive any instructions then?

A I did.

Q And it was on that, and what you knew about the situation, that you went out there on the 8th, wasn't it?

A Yes.

Q Nothing else called you out there, I suppose; no other reason for going excepting the knowledge that you then received of what you formerly knew about it?

A No other instructions, you say?

Q No other instructions, and no other reason why you went?

A The instructions were to protect this man's home.

Q You mean that was the instructions from the deputy superintendent?

A Yes, sir.

Q You did not convey those instructions to Dr. Sæst, did you?

A I did not.

Q And were you there when the things, any of them, came into the house?

A I was not.

Q Was any officer there?

A Yes, sir, four patrolmen and a sergeant.

Q At what time of day was that if you know?

A When they moved in there?

MR. TOMS: Of course he would not there and he could not know.

MR. DARROW: No, you could not know. Do you object to it?

MR. TOMS: Oh, not seriously.

MR. DARROW: I do not imagine it makes much difference, but that is a starting point.

Q Do you know about what time they got there?

A I was told that they were twice, somewhere between 9 and ten o'clock.

Q That could mean they came in two batches or something like that?

A Yes, sir, two small trucks.

Q Trucks, Ford trucks, weren't they?

A I don't know.

Q Well, it is not important, but two small vans anyway is what you heard, wasn't it?

A Not vans.

Q Trucks?

A Small trucks is what the sergeant informed me.

Q Very well. You never got any instructions in writing, did you?

A I did not.

Q Did you ever make any report of what happened, in writing?

A I did, following the shooting.

Q To whom?

A To the superintendent.

Q Did you ever make more than one?

A Not that I know of. I do not recall of making any more than just the statement.

Q When did you make it?

A When did I make that statement?

Q Yes.

A That same night of the shooting.

Q Now, what was your purpose in going out there on the 8th?

A What was the purpose?

Q Yes.

A To protect Dr. Sweet's home.

Q Had you any reason to think there was any danger to Dr. Turner's home?

A Yes, there was; the occurrence on the west side.

Q Spokane?

A In through that neighborhood. There was several disturbances I understood over there.

Q How long before?

A It may have been four to six weeks before that.

Q Were you there?

A I was not.

Q But you heard of it?

A I heard of it.

Q And that was one of the things that caused you to go over there with your police force, was it?

A To protect his home, yes, sir.

Q Well, the state of mind of yours was due somewhat to what had happened at Dr. Turner's home?

A We were there for precautionary purposes, to prevent anything.

Q But that was due purely to what you knew about Dr. Turner's home, wasn't it?

A Yes, sir.

Q How many did you have there when you went on the 8th, how many people, officers?

A The morning of the 8th?

Q Yes.

A When he moved in there?

Q Yes.

- A We had four men and a sergeant.
- Q What time did you get there?
- A What morning?
- Q Yes, that day the eighth?
- A Oh, I was there three or four different times through the day.
- Q What time was the first time if you remember?
- A It may have been somewhere around 11 o'clock probably.
- Q When did you come back?
- A I think I was back there right after dinner, right about 1:30 or so.
- Q And when again?
- A I went there when I left the station about five o'clock, I stopped over there again.
- Q And how long did you stay?
- A Not over a minute or two.
- Q Did you go again?
- A I went there in the evening of the 8th.
- Q How long did you stay?
- A About midnight, to the best of my recollection.
- Q What time did you get there in the evening, to the best of your recollection?
- A About seven o'clock.
- Q You stayed from 7 o'clock until midnight on the 8th?
- A Yes, sir.
- Q That is as near as you can put it? I do not mean to pin you down to minutes or anything. Were there any more

- Q policeman excepting those four, at any time on the 8th?
- A where was.
- Q where did the rest come from?
- A They changed shifts at three o'clock. That was when we put eight men on there in charge of the sergeant.
- Q You put eight men and a sergeant there? Anybody else?
- A Myself and the lieutenant were there.
- Q You had as many on the 8th as you did on the 9th, did you?
- A With the exception of the two traffic men that we had on the 9th, we did not have them there on the 8th.
- Q When did you put them on?
- A Put on the traffic men?
- Q What time?
- A The 9th.
- Q What time of the day?
- A About 7:30 in the evening.
- Q Were you in telephonic communication with the office - I suppose you were from some point there?
- A We had a telephone right there at the grocery, but I do not recall of using it that night. I sent the Ford man to the station to get these two men and place them at the corners.
- Q Did anybody, any officer, telephone from the scene of action that day to the headquarters, or don't you know?
- A Not that I can recall.
- Q You did not direct anybody to, either, did you?
- A No, I don't think I did.

Q At no time while you were there, up to the time you went into Dr. Sweet's house after the firing of the shot, at no time did you make any effort to see him or talk with him?

A I did not.

Q Or anybody else in the house?

A No, sir.

Q Or send any word to him?

A I did not. He could see us outside.

Q You sent him no word, however, as to why you were there?

A I did not. Shall I proceed to the next question?

Q Do you know whether any policeman went into the house, or communicated with him in any way?

A I could not say.

THE COURT: Is this a good place for you to

stop, Mr. Darrow?

Yes, sir.

MR. DARROW: Yes, your Honor, it would be a

good place.

THE COURT: We will take a recess now and adjourn

until 2 o'clock.

(Whereupon a recess was taken until 2

o'clock P.M. Thursday, November 5, 1925).

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A No, that at the time was 1870
Afternoon Session

Q Was there any change in the number of
3 o'clock P. M.

any change in the number of men in the
- - -

A At those 3 o'clock?
(The same parties were present pursuant to

Q Yes.
adjournment.)

A I didn't see any within - I saw

Q Was JOHN O'RTOURK MURPHY SIOGHUKNECHT, was thereupon

A I did recalled as a witness, and having been previously

Q You had duly sworn, testified as follows:

in the morning for a CROSS EXAMINATION (Continued)

Q On what MR. DARROW: Shall I proceed, your Honor?

Q The day was speaking of you.
BY MR. DARROW:

A I was there some time after
Q Officer, about three o'clock on the afternoon of the 8th,
cloves of the, the morning of
the day before this shooting, you put on eight men instead
AND you didn't - when you went down there, you put on
of four?

Q De the army did it?
A Yes, sir.

A Yes, wasn't at all.
Q Did you order those?

A Did I?
A Did I order those for that?

Q Yes.
A I did.

A No, sir, I did not. They were
Q Anything happen to make you think you needed more?

A Anything happen?
A Yes, Did anything happen - or anything around there, any-

Q How did you happen to come there?
thing in the situation that made you think you needed more?
A Yes.

A Well, nothing particular outside of that we probably
because I sent them there.
thought there would be more people come around there in
Q Well, how did you send them there?
the evening than there would during the day time.

A From the other house.
Q Didn't come evening at 3 o'clock, did it?

A No, that is the time that the shift changed.

Q Was there any change in the number of people preceding that? Any change in the number of people around the house?

A At three o'clock?

Q Yes.

A I didn't see any within - when I was there.

Q Did you hear of anything?

A I did not.

Q You left about what time in the morning? You were there in the morning for a few minutes?

A On what day?

Q The 8th I am speaking of now.

A I was there some time after ten o'clock, probably ten or eleven o'clock, the morning of the 8th.

Q And you didn't - when you went back the situation seemed to be the same, did it?

A Yes; nothing at all.

Q Did you telephone for the extra men?

A Did I telephone for them?

Q Yes.

A No, sir, I did not. They come on duty at three o'clock.

Q Did they all come on - - I mean how did they happen to come there, eight men?

A How did they happen to come there?

Q Yes.

A Because I sent them there.

Q Well, where did you send them from?

A From the station house.

Q Before you got up there at 3 o'clock? What time did you give orders for those eight men that appeared there?

A Shortly before three o'clock, at roll call, shortly before roll call.

Q Do you remember when you gave them?

A That is about the only time I could have given them because that is -

Q That isn't the question. Do you remember, that is, yes or no. Do you remember giving that order?

A To place eight men there?

Q Yes.

A I do.

Q When was it?

A I say shortly before 3 o'clock that day.

Q You went up the same time with them?

A No, I did not.

Q How long after?

A I was up there, I think, somewhere between four and five.

Q Did you explain the situation to them before they went up?

A What do you mean by the "situation"?

Q Tell them anything about what it was for? Why they were going?

A Told them they were to protect Dr. Sweet's home.

Q Yes. All of those police, that is, it was for the protection of Dr. Sweet and his home, was it not?

A It was.

Q Now, you went back there in the evening, of the 8th?

A Yes, sir.

Q About 7 o'clock, is that about the time you say?

A About 7 o'clock when I got there.

Q Dark or light? Was it dark or light at that time?

A It was light at that time.

Q And any people around there?

A Nothing to speak of - the ordinary people walking up and down at 7 o'clock.

Q Were there any people there at any time up to the time that you left that call, to speak of, on the 8th?

A On the 8th? No number of people.

Q Yes.

A Yes, there was - I would say there was again as many people there on the 8th as what there was on the night of the shooting.

Q How many were there, there on the 8th?

A Where?

Q Where do you mean?

Q Around the neighborhood of Dr. Sweet's house?

A Oh, within a block either way of the house, I would figure for everybody sitting on their porches and out in front on their lawns, there may have been a couple of hundred people within a block each way.

Q Yes. Sitting on the porches or out on the lawn, or walking around?

A Yes, sir.

Q Talking, were they?

A Talking?

Q Yes.

- A I don't know. I don't -
- Q Couldn't you tell whether they were talking. People were walking by. Where they were gathered together in these little knots, were they talking?
- A We didn't allow anybody to gather.
- Q Did you disperse any number of people that were gathered together?
- A Any number?
- Q Yes.
- A There were no number at that time.
- Q Did you do anything else?
- A I did.
- Q Or tell anybody not to congregate in numbers?
- A There were no numbers. Two or three people come to the corner, and stopped, and we ordered them to move.
- Q Did you order any?
- A I did.
- Q How many times?
- A That is hard to tell; probably three or four different times.
- Q Did you ask what they were doing there?
- A I did not.
- Q Did you ever at any time, either on the 8th or the 9th, ask anybody why they were there?
- A I did not.
- Q Did you ever go to anybody in the neighborhood and find out anything about what was going on?
- A I did not.

Q Did you ever talk to any of the neighbors about it?

A I did not.

Q You heard of the water works - the Water Improvement Club?

A I did.

Q Make any investigation of it?

A Had two men at their first meeting in the school.

Q Did you get a report on it?

A I did.

Q Where is it?

A It wasn't in writing. It was verbal report.

Q Did you do anything besides that?

A What do you mean?

Q In reference to those meetings of that club?

A That is the only time that I know that they had a meeting at the school.

Q Find out who the officers were?

A What officers?

Q Of the club?

A I did not.

Q Find out who the prominent people were?

A I did not.

Q Did you find out where they lived?

A No sir.

Q Did you ask? Did you ask anybody?

A I was not there.

Q Did you ask anybody where - - when they made a report, where any of these people lived, and who they were?

A What do you mean, did I ask the officers?

Q Did you find out how many were present at that meeting?

A It was so many -

MR. TOMS: Wait a minute, wait a minute.

Q Did you find out?

MR. TOMS: Yes, or no.

Q Did you find out about how many were there, without stating the numbers.

MR. TOMS: Without telling?

Q Without telling, yes.

A By the officers, I was.

Q Yes. Had that anything to do with your taking - or the precautions you took for police protection?

A It had not.

Q Was that the first time you had ever heard of that club?

A At that first meeting?

Q Yes.

A No, I wouldn't state positively whether it was or not.

Q Now, there were some 200 people, around about Dr. Sweet's place on both sides of the street, as near as you can get at it, on the 8th?

A People sitting out on their porches, and people walking.

Q Were going back and forth on the street, weren't they?

A The same people?

Q Yes.

A I couldn't say that.

Q You couldn't say?

A No, sir.

Q Did you try to find out?

A I didn't.

Q And you asked nobody what their business was in that vicinity?
If you had to?

A No, they had a right to be walking by, hadn't they?

Q You are the officer in charge?

A Yes.

Q Did you ask anybody?

A I did not.

Q You were there to find out whether anything was going on
that would imperil Dr. Sweet's property and whoever was
there, weren't you?

A Yes, sir.

Q Any automobile parked anywhere within a short distance of
Dr. Sweet's place on the 8th?

A On the 8th?

Q On the 8th?

A Yes, there were automobiles parked on Garland Avenue.

Q Whereabouts?

A Both north and south of Dr. Sweet's house.

Q How many?

A I did not count them. There may have been ten, fifteen,
I believe, of those people up there own automobile.

Q Now, that isn't the question I asked you.

A All right, sir.

Q How many?

A I don't know. There may have been ten, fifteen.

Q At the preliminary, you said fifteen or twenty, didn't you?

MR. TOMS: Just a minute, just a minute. Read the

question and answer.

Q Yes, that is about right; strike that out for the time being; strike it out. Did you try to find out anything about whose automobiles they were, and why they were there?

A I did.

Q Just where were they parked on Garland Avenue?

A What do you mean, just where, in front of whose house, or what?

Q At what part of the street?

A I said both north and south of Charlevoix on Garland.

Q Within a block?

A Within a block?

Q Yes.

A Well, some of them parked close to Garland Avenue - to Charlevoix Avenue.

Q What Avenue please?

A Charlevoix.

Q Charlevoix?

A Yes.

Q Which side of Garland Avenue, were they parked on?

A Both sides.

Q East and west side?

A Yes, sir.

Q Both sides of Charlevoix?

A On what?

Q On both sides of Charlevoix?

A On what day?

Q 8th?

A Yes, there were some parked on Charlevoix on the 8th.

Q Do you know whether any automobile parked there belonged to any resident?

A I do not.

Q Did you see people coming up there in their automobiles?

A Yes.

Q Did you see them get out?

A Some of them.

Q Some of them didn't get out, is that right?

A That is possible.

Q Well, don't you know?

A No.

Q You don't know?

A Couldn't say that I do.

Q Did any taxis get there and unload people in that vicinity, any taxi cars?

A One of them - where? Where do you mean?

Q In the same vicinity we are talking about?

A On what day?

Q 8th.

A Not that I know of.

Q Did they on the 9th?

A I believe that there was a taxi that brought two gentlemen to Dr. Sweet's home, shortly before the shooting occurred.

Q Any other taxi come up there and unload people?

A Not that I know of.

Q Did you see that taxi come up there that you have been referring to?

A That stopped at Dr. Sweet's?

Q Yes.

A It didn't.

Q Where were you at the time?

A I must have been right close around in the vicinity.

Q What time was it?

A What time was it when the car come there?

Q Yes.

A I don't know, only what I was told. It was shortly before the shooting.

Q You were stationed right here on this corner, weren't you, that is the southeast corner of Charlevoix and Garland?

A I was there probably ten or fifteen minutes before the shooting took place.

Q So, how much time were you there on the 8th?

A Where?

Q On the corner I have indicated.

A That is hard telling.

Q How much time were you there on the evening of the 8th?

A How much time?

Q Yes.

A That would be hard to say, the exact time. It was about - I know I got there about ten or fifteen minutes before the shooting, and we stood there until the shooting took place.

Q On the 8th, you got there about 7 o'clock?

A About that.

Q And did not leave until midnight?

A About midnight.

Q Where were you during that time?

A On the 8th?

Q On the 8th, or five hours?

A Right in the vicinity of his home all of the time.

Q What were you doing?

A What was I doing?

Q Yes.

A Just simply walking around.

Q Just walking?

A Yes.

Q How long a beat did you have there?

A I did not have any beat.

Q Well, how much distance did you cover?

A How much distance?

Q Yes.

A We never went any further than St. Clair, - or, I didn't go any further than Bewick, on Charlevoix.

Q Are those the next streets?

A The next streets.

Q Did you talk to any officers?

A I had Lieut. Schellenberger with me all of the time.

Q Did you talk to any other officers there?

A Not that I recall.

Q Do you recall anybody that you spoke to there that night about this matter, or connected with it?

A What do you mean, officer or civilian?

Q Officer or anybody else, up to the time you went into

Dr. Sweet's house on the 9th?

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A Pertaining to Dr. Sweet's home?

Q Yes.

A No, unless it was my brother-in-law, when he come there.

Q Did you talk to him about it?

A I don't just recall whether I did.

Q Can you mention anything you did by way of investigating the situation up there, either on the 2th or the 3th?

A I didn't see anything to investigate.

Q Did you hear any glass breaking?

A I did not.

Q Is your brother-in-law a police officer?

A He is connected with the Telephone Company and police officer.

Q Did you send for him?

A I did not.

Q How did he happen to be there?

A He lives within a block or so from there.

Q How long was he with you?

A How long?

Q Yes.

A He come there when I and the Lieutenant got there, about ten or fifteen minutes before the shooting.

Q How long did he stay?

A I don't know what happened to him after the shooting.

Q You don't know whether he left?

A No.

Q Or anything about that?

A No, sir.

Q What is his street number and address?

- A I couldn't tell you. He lives on Marlbut Avenue, just north - just south of Charlevoix.
- Q You know the confectionery store, don't you up there?
- A Where is one.
- Q Delicatessen?
- A There is one.
- Q Whereabouts, whereabouts is it located?
- A On Charlevoix, between Garland and -
- Q - and what?
- A What do you mean the grocery store?
- Q Yes.
- A There is a grocery store on the corner.
- Q A grocery store on the corner?
- A Yes.
- Q On the corner of Charlevoix and Garland?
- A The northeast corner.
- Q Were you ever in there?
- A Were I ever in there?
- Q Yes.
- A Yes.
- Q Talk with anybody about this matter?
- A No. I went in there the night of the 8th; I and the Lieutenant had a bottle of milk, that is about all.
- Q Did you talk to anybody about it in the store?
- A No, not that I can recall.
- Q Did you hear, from any source, about a meeting in that store in reference to Dr. Sweet's coming into the neighborhood?

A In that store?

Q Yes.

MR. TOMS: Just a minute, just a minute.

Q (By Mr. Darrow): Did you hear it from any source?

MR. TOMS: I object to it as immaterial, and hearsay.

MR. DARROW: I am not asking him what it was, and I am not going to.

THE COURT: How do you answer that yes or no.

A I did not.

Q You never heard of that at any time, if it happened?

A No, sir.

Q Were there people there on the street when you left, on the morning of the 9th or midnight of the 8th?

A As far as I can recall, when I left, there wasn't anything out of the ordinary then.

Q Were there automobiles parked there when you left, or don't you remember?

A I would not say whether there was or not.

Q That, you don't know?

A I don't remember. There may have been.

Q Do you know whether the streets were deserted when you left?

MR. TOMS: Just a minute, that call for a conclusion.

Q Well, was there anybody around there when you left, or don't you know?

A If there had been, I think I would have stayed there.

Q Well, you say there was nobody there then?

- A I don't think so.
- Q When did you go back?
- A When do you mean, after?
- Q After you left, around midnight on the 5th?
- A I went back then the next morning, before I got to the station, probably somewhere around 8 o'clock.
- Q How many people were there, how many officers were there with you at that time?
- A How many officers?
- Q Yes.
- A There were four officers detailed there and a sergeant.
- Q In the morning?
- A Yes.
- Q Anybody there around the streets?
- A No.
- Q How long did you stay?
- A Probably two or three minutes.
- Q When did you go back?
- A When did I go back?
- Q Yes.
- A I would not say whether I went back there before noon or not.
- Q Give us the best recollection you have on it?
- A I think I stopped there again about 11:50. You see, I live north of this place; and, going to and from the station, I usually stopped there.
- Q Was that the reason you were there, because you lived north, or because you were protecting Dr. Sweet and his premises?

Q At this corner, or in that vicinity?

A I believe some of them did.

Q Don't you know, officer, whether any of them stopped?

A I believe some of them did.

Q Do you know anything about how many?

A No, I couldn't say.

Q Did they unload?

A Some did.

Q Do you know anything about how many?

A No.

Q Do you know where they went to, when they unloaded?

A I do not.

Q Do you know where they went to, that got out of the machines?

A No.

Q It was the machines that came in there, the people that came in there that made you shut off the street, was it?

A The traffic that came in there, that made us shut off the traffic.

Q Was that the first time you ever shut off the traffic on that street at that point?

A It was.

Q What do you mean by "traffic"?

A Automobiles.

Q Do you mean going through along the street?

A Yes.

Q There was more than usual?

A There was.

Q A good deal more?

A I would say there were.

Q Officer, don't you know that they came to that corner -

A They had to come to the corner, if they were going to cross.

Q Now, officer, don't you know that what you call the "traffice" came there to that corner on account of Dr. Sweet?

MR. TONS: Just a minute.

A That may be.

MR. TONS: Wait a minute. Well, all right.

Q There was nothing to make extra traffic on that street, in the way of going through, was there?

A Just what do you mean?

Q Well, I mean a fair, or a carnival or an earthquake or something like that, - anything that you know of, that called for extra traffic on that street that night, - about Dr. Sweet?

A No.

Q Well, now, let me ask you once more: You believed that these automobiles coming there and unloading, and the extra traffic, was on account of Dr. Sweet, and meant danger, didn't you?

MR. TONS: Just a minute, I object.

MR. WOLL: That is objected to, if the court please.

I do not think it is proper.

THE COURT: Objection sustained.

Q (By Mr. Darrow): That is why you blocked off those streets, isn't it - that street?

MR. TONS: Just a minute. Let me make the same objection if the court please.

THE COURT: Objection overruled. You may answer the question.

MR. WOLL: What do you mean by "That is why."

Q Your belief that there were people coming there, and traffic coming there on account of Dr. Sweet coming into that neighborhood; that is why you blocked off those streets, as a precaution against danger, wasn't it?

MR. WOLL: If the court please, I would like to object to that. It is not any more logical to believe possible that these people came there because of Dr. Sweet, than because of the police officers stationed around the house, for example.

THE COURT: I think Mr. Darrow's question is as to why the street was blocked off by this officer, is proper.

MR. WOLL: I think it calls for a conclusion, if the court please. It would be impossible for this witness to give us any version of why all these pedestrians, we will say, or drivers of cars, would be on that corner.

THE COURT: That is not what he was asking. He is asking if that is why he blocked the street off. Objection overruled. You may answer.

MR. DARROW: Read the question.

(The question was read by the Reporter).

MR. WOLL: You see, if the court please, that presupposes that these people knew that Dr. Sweet was going into that neighborhood; and this officer is asked to explain that.

MR. HAYES: We ask that, if any objections are made,

that they be made in such a form as not to suggest to the witness what answer the prosecution would like.

MR. DARROW: I want to take an exception to the statement, your Honor.

THE COURT: I think the objection is all right, but it is not meritorious, and I will overrule it. The answer may be given. You may give an answer to the question. Go ahead.

A I believe that there was a number of those automobiles come through there - -

MR. TOMS: If the court please, that is not the question. That question has been ruled out.

MR. DARROW: However, I think the officer should finish his answer.

THE COURT: Let me make this plain. Mr. Toms objected sometime ago to a question as to what the witness believed. That objection was sustained. Then Mr. Darrow asked another question, in which he asked if that was the reason why the traffic was blocked off. Mr. Toms objected again. That objection is overruled, and you may answer that. That was the question the reporter read to you last.

A The reason the traffic was cut off at Coethe and Waterloo, was because every now and then there would be a blockade of automobiles. We decided to cut them off.

MR. DARROW: I wish you would read the question again, Mr. Reporter, and kindly watch the question and see if you can answer the question.

(The question was read by the Reporter)

MR. TOMS: That is objected to, because it contains an answer to a question which was excluded. You could not let the witness tell - -

MR. DARROW: I will state it over.

MR. TOMS: Wait just a minute. You would not let the witness tell what his belief was.

THE COURT: Mr. Toms, let Mr. Darrow re-shape the question.

MR. TOMS: That is agreeable.

Q Was your purpose in blocking off the streets, as you have stated, due to your belief that the extra traffic, and the extra number of people might be a menace to Dr. Sweet and his property, and was it done for the sake of protecting him?

A It was done for the sake of protecting him.

Q Now, I have got the answer.

A All right, sir.

Q These blockades were placed on Garland Avenue, the next cross street, were they?

A One block north.

Q And south?

A North and south of Charlevoix, yes, sir.

Q That was about half past seven?

A About half past seven.

Q And where were you from that time until the shooting?

A Up until about 15 minutes before the shooting, I was practically up and down the streets.

Q That is, Garland, you mean, do you, or Charlevoix, or both?

A Mostly through Charlevoix.

Q And not more than a block either way from this scene?

A No, sir.

Q And about 15 minutes before the shooting, you took your station up here at the corner, is that right?

A We happened to go to that corner, and there I met my brother-in-law.

Q And there you stayed until the shooting, is that right?

A We were there, yes, sir, from that time on until the shooting.

Q There were a number of people in front of the store and the house adjoining on Garland, opposite and a little north of Dr. Sweet's house, weren't there?

A There was no one in front of the store. As I said before, there were probably ten or twelve people in front of the house and on the porch next to the store.

Q You never spoke to any of them?

A Any of the people?

Q Yes.

A No, I did not.

Q Over on the other side, the south side of Garland and east of Charlevoix, there were more people, weren't there?

A The south side of Garland?

Q Yes. If you would like to look at this, you may. I mean in here. That is the store, and this here is south (indicating on blackboard).

A That is where the school is?

Q No, the school is over here.

A Oh, that is where the apartment house is?

MR. TOWNE: No.

MR. DARROW: I want you to understand it. Right in here (indicating on blackboard).

MR. TOWNE: Here is the apartment house.

MR. DARROW: The apartment house was in there. Was there anybody in here or did the store come clear up to the street?

A The store comes clear to the street on Charlevoix, but it doesn't on Garland.

Q Were there people on Garland, in front of the store?

A No, sir.

Q Going up and down?

A No, sir.

Q Were there people passing there?

A Were there people passing there?

Q Yes, walking.

A Here and there some one walked into the store. The store was open.

Q Would people pass the store, and walk back past the store whether it was the same people or not, I do not care; I mean, whether there were people there?

A Oh, sure, there were people there walking.

Q There were people on the school house lawn, weren't there?

A Yes.

Q Was that a sodded lawn?

A Part of it was sodded.

- Q Do you know how many there were?
- A There may have been 15 or 20.
- Q There might have been 50, or 200 mightn't there?
- A No, sir.
- Q Did you count them?
- A What?
- Q Did you count them?
- A I could see them from where I was standing.
- Q Did you go up there? Did you go to them?
- A I didn't count them.
- Q Did you talk to anybody there?
- A I did not.
- Q Now, on the other side where this apartment building was, were there people congregated?
- A People on private property on the lawn there.
- Q Were there people there?
- A Yes, sir.
- Q How many?
- A Oh, there may have been seven or eight.
- Q Did you talk to any of them?
- A I did not.
- Q Did you make any effort to find out why they were there?
- A That was not any of my business. They were on private property.
- Q I didn't ask you that. I asked you if you made any effort?
- A I did not.
- Q You did not know them, did you?
- A No, sir.

Q And you did not know where any of these people that came out of the automobiles came from, or where they went to, did you?

A No. I couldn't say that I did.

Q And you made no effort to find out?

A No, sir.

Q Had you been stationed at that corner any other time excepting that, or had you stood there any length of time?

A Yes.

Q When?

A Different times through the night.

Q For how long a time?

A I don't know as I could just state the time.

Q What were you doing while you were there?

A Just simply standing there.

Q Weren't you using your eyes and ears?

A There wasn't anything to do.

Q Weren't you using your eyes and ears?

A I had them open.

Q You were listening and looking, weren't you?

A Certainly.

Q To see what was going on. That was what you were there for, wasn't it?

A Surely.

Q Did you hear any conversation around there?

A I did not.

Q Can you mention any words that you heard from anybody in the two days and nights you were there, outside of

Dr. Sweet?

A With who, do you mean?

Q Anybody?

A Every time I got there, I spoke to the sergeant in charge, and I asked him whether there was anything going.

Q You might have asked him if there was anything going?

A Yes.

Q Can you mention anything that you heard from anybody, outside of officers, in the two days and two nights that you were there until you met Dr. Sweet?

A No, because I didn't talk to any of them.

Q You heard no stones against Dr. Sweet's house?

A Not before the shooting.

Q Not before the shooting?

A No.

Q Did you afterwards?

A I did.

Q How many?

A When I was at his front door, there was two stones on the porch.

Q When you were at his front door?

A Yes.

Q Do you know where they came from?

A I do not.

Q Did you hear anymore?

A I did not.

Q Did you see any stones that night or the next day, in the yard?

yard?

A SI saw the two stones on the porch.

Q Did you see any others?

A Yes.

Q Where?

A I believe there was one or two on the roof^{and} I saw two or three out on the front, on the lawn there.

Q Do you know how many were on the lawn?

A No, sir.

Q Did you take them with you?

A I did not. The detectives took charge of those.

Q Do you know where they are?

A I believe Lieutenant Johnson can tell you that.

Q Well, do you know where they are?

A No, I do not.

Q Have you tried to see them since?

A I have not.

Q And you don't know how many?

A Only what I seen.

Q Do you know how many there were on the lawn?

A I said there may have been two or three on the lawn.

Q There might have been more, mightn't there?

A I didn't see them.

Q I say, there might have been, for all you saw?

A (No answer).

Q All right, we will omit it. Well, how many were there on the roof?

A I think there were two on the roof.

Q Do you know whether it was two or three?

A I am quite sure it was two.

Q Did you give those to the detectives also?

A I didn't give any of them to the detectives. They got them themselves.

Q You did not take charge of those at all?

A I did not.

Q Did you see them take them away?

A I would not say that I saw them take them away.

Q This was the next day, was it?

A Yes.

Q Were you there alone?

A Was I there alone?

Q Yes.

A No, I was not.

Q Did you personally make any effort to find out whether there were any stones there, or how many?

A Yes, sir.

Q And preserved them?

A No, sir, I did not preserve them.

Q Did you make any effort to have them preserved?

A I was told by Lieutenant Johnson that he has got the stones.

Q Did you ask him about them? Did you ask him about them?

A I believe he said that he would take care of them there.

Q Did you give any directions of any sort?

A Did I,

Q Yes.

A Not to him.

A It was their case. They were going to handle the case.

I was not.

Q None of your duty to find out what took place, is that right?

A I found out all there was that took place the night of the shooting.

Q After you got into the house you went upstairs, didn't you?

A When?

Q Well, after you got in. Wait a minute. Officer, your question is a fair one. You said you did not go up the first time, but you went in shortly afterwards and did go up. That is right, isn't it?

A I do not think I went upstairs the second time, even. I think I went upstairs after the prisoners had all been taken away.

Q Well, that is what you said. I suppose that was the second time. That is exactly the way you stated it, as I recall it. After the prisoners were taken away, you went upstairs, and you searched it, didn't you?

A I went through to see what damage had been done.

Q Was that all you did, -- to go through, to see what damage had been done?

A Yes.

Q You saw some furniture which you have described the best you could, did you?

A I saw a bed.

Q Do you know how many rooms there are upstairs?

A How many rooms?

Q Yes.

A Maybe five or six.

Q You won't be sure how many?

A No, sir. I didn't take a diagram of it.

Q When you wanted to see what damage was done, you meant by whom? You mean damage to the property, don't you?

A Yes.

Q By the people outside?

A That is, to Dr. Sweet, who claimed his property was damaged.

Q And you found cigar butts and cigarette butts around, didn't you?

A I did.

Q Whereabouts?

A Practically every room we went into, upstairs.

Q That, and the furniture, is practically all you described that you found, isn't it, and perhaps some guns and ammunition?

A I didn't find the guns.

Q That and the furniture were all you have told us about finding?

A I believe so.

Q Did you search all of the rooms?

A I did not.

Q What ones did you search?

A I didn't search any.

Q What ones did you go through?

A Went through practically every room on the first floor

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on the second floor.

Q Did you go through the back room upstairs?

A Out on the back porch.

Q Did you go through the front room?

A The bedroom?

Q Bedroom?

A Yes, I was in there.

Q Did you find any cigarettes or cigar stumps there?

A Yes, there was a few laying around there.

Q Whereabouts?

A Right close to the windows.

Q That is, the front windows you have been speaking about?

A Yes.

Q Did you find anything else there?

A In the bedroom?

Q Yes.

A Yes.

Q What?

A I found a small stone.

Q Anything else?

A Roman's wearing apparel in there.

Q Anything else that you can think of?

A No.

Q Did you find any broken glass?

A Yes.

Q Why didn't you mention it?

A Why didn't I?

Q Yes.

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A I told you that a window had been broken, didn't I?

Q Why didn't you mention finding broken glass on the floor?

A Why didn't you ask me.

Q I was going to?

A All right.

Q You need not worry about that. Whereabouts was the broken glass?

A Whereabouts was it?

Q Yes.

A Some of it was on the inside and some of it on the outside

Q Whereabouts?

A Right where the window was broken.

Q Yes. How much was on the inside?

A Well, there was more in the inside than what there was on the outside, I would say.

Q Would that be enough to lead a policeman to the idea that it was thrown from the outside?

A We found the stone on the inside, and I believe it was thrown from the outside. I do not doubt that at all.

MR. TOMS: You cannot ask for anything better than that, can you?

MR. DARROW: No. I just wanted to see how it reacted on him.

Q Well, now, there were two holes up above, weren't there?

A Yes.

Q So that there must have been two stones?

A We did not find the second one.

Q That might have been thrown out?

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MR. TOMS: Just a minute. It calls for a conclusion.

THE COURT: Objection sustained.

MR. TOMS: And it is argumentative.

Q (By Mr. Darrow): These two holes were close together, weren't they?

A No. One was on the -- this light of glass was probably as wide as this railing, and probably about twelve inches long. There was one hole on this side, and one over on this side, of that same particular light of glass.

Q Well "close" is an indefinite word?

A What?

Q "Close" is an indefinite word. That is what I asked you. They were both in the one pane, and the pane was about twelve inches long?

A Twelve inches long by four inches wide.

Q So that they were both in the space, and both evidently made by separate instruments, weren't they?

A They must have been made by the same instrument. But we only found one stone inside.

Q And you cannot quite understand how one stone would have done both of them, can you?

A Hardly.

Q You never thought of any such thing as that? And the broken glass that was on the inside was right down under it, wasn't it?

A Yes, sir.

Q Did you pick up the glass?

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A I did not.

Q Did the officers preserve the glass?

A I don't think so.

Q So that as far as you know, that has not been preserved by the police department?

A As far as I know it is still there.

Q It was there the last time you went there anyhow?

A Yes, sir.

Q Officer, would you please, when you go back, get your report?

MR. TOMS: I have sent for it.

MR. DARROW: You have sent for it?

MR. TOMS: Yes.

MR. DARROW: Oh, well, then, you do not need to bother with it, Officer. Just a few more questions I want to ask you and I am through.

Q (By Mr. Darrow): You did not see two men drive up in an automobile or a taxi, and go into that house, did you?

A I didn't see them. I was told that two colored men came up there and went into Dr. Sweet's house.

Q You did not see a machine stop in front of his house?

A Not to my knowledge did I see any of them stop in front of his house.

Q Did you see any machines drive into the alley from Charlevoix, about the time of the shooting? When you were out there, — do you get me right — there is an alley back here, is there not (indicating on blackboard)?

A Yes.

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MR. TOMS: The alley is indicated on there, Mr. Darrow.

MR. DARROW: How is that?

MR. TOMS: The alley is indicated there.

MR. DARROW: Here (indicating). And, they go into the garage from here (indicating).

Q Did you see anybody drive in there?

A No, I don't recall of anybody driving in there.

Q You do not know where all of the shots that you heard came from, do you?

A Do I know where they came from?

Q Yes.

A I only know where the one came from that I seen fired.

Q You saw the light from some of them? You saw the light of the powder from some of them, as it came out?

A Out of the front and side windows, yes, sir.

Q But you do not know how many shots that meant, do you?

A I had judged there had been fifteen - -

Q No, I would rather you would not say that. You have told us that you judged there were fifteen or twenty shots. You have told us that. But you do not know how many of those shots were from guns from which you saw the light?

A No, I couldn't say as to how many were.

Q And you don't know whether anybody else shot back or front excepting just as you have told us?

A That is all I had seen.

Q All of these officers were armed?

A Our officers?

Q Yes.

A Yes, sir.

Q Do you know what kind of guns they carried?

A Well, some of them carry Colt 32's, and others carry Colt 38's.

Q There was one stationed in the back, wasn't there?

A There was.

Q Who was that?

A Mr. Gill, I believe that is his name.

Q I think that is his name. I think I have read it in the testimony.

A Mr. Gill was in the alley.

Q Do you know what kind of a gun he carried? If you don't know, say so?

A I don't know the caliber.

Q We will probably get that from him. How long was it in your opinion from the time you heard the first shot until the time you heard the last?

A Oh, my judgment was they were fired anywhere from about fifteen to thirty seconds.

Q I suppose, in your twenty odd years of police service, you have heard a number of volleys fired, and you probably could guess pretty closely, couldn't you - - closer than a man who had not; you would naturally expect to; you have been through things where there was shooting before this?

A I would not say that, because some of my officers told me they thought there was fifty shots fired.

Q I am not talking about the number now. I am talking about

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the time.

A Which?

Q The time in which it occurred?

MR. TOMS: The time in which what occurred?

MR. DARROW: Between the first and last.

A They were all fired practically at one time. There was no let-up at any time.

Q But you think from fifteen to thirty seconds would probably cover it?

A I think so. It may have been in less time than that.

Q It is pretty hard to be sure about those things?

A That is my own personal judgment.

Q You went in there then alone, -- the first time you had been in Dr. Sweet's house, or spoken to him, wasn't it?

A It was.

Q And you did not know who was in there?

A I did not.

Q You assumed Dr. Sweet was there?

A Yes, sir.

Q And you asked him, with some words that I will admit -- not because I am unfamiliar with them, I do not want you to think, but it is not necessary to repeat them; --

A All right.

Q (Continuing): -- what he meant by shooting?

A I did.

Q And he told you, as you recall it, that they were destroying his property?

A That is what he said.

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Q "They are ruining my property. I said 'What has been done.'
I said, 'I haven't seen a man throw a stone. I haven't
heard any commotion or anything else. I haven't heard
of anyone throwing a stone.'" Is that correct?

A Yes, sir.

Q You were the first one who mentioned the question of stoning,
between you and Dr. Sweet, is that right?

A I didn't get that question.

Q You were the first one, as between you and Dr. Sweet,
who mentioned stoning?

A No, he was the first one who mentioned that his property
was being destroyed.

Q But he did not say "By stones", did he?

A I believe he did.

Q You have not said so, either in your testimony this morning,
or in the preliminary hearing, did you?

A That may be.

Q Do you think it must have been that he said it, or you
would not have thought of stones yourself?

A No.

Q Well, now, officer, in the preliminary hearing - - I will
show you this after I ask you the question, so that you
will be sure I am fair with you. You had previously
answered: "Do you want me to say just what I said to him?"
Then the question was: "State as near as possible, and
what he said to you?" This was your answer, the way you
answered: "All right, sir. I went in there, and I said,
for Christ's sake, what the hell are you fellows shooting

about." "Why", he said, "They are ruining my property."
I said, "What has been done?" I said, "I haven't seen
a man throwing stones, and I haven't heard any commotion
or anything else. I haven't heard of anyone throwing a stone."

A 'Well,' he said, something about inspector, I suppose
McPherson, -

A Yes.

Q Now, that is the transcript; or, will you take my word
for it (handing transcript of testimony to witness.)

A Yes.

Q I would not try to fool you?

A I am not afraid.

Q Besides, counsel is watching me. That is what you said
at the preliminary hearing, and substantially what you
said this morning. That was what you said at the pre-
liminary hearing, wasn't it?

A Yes.

Q Well, now, what do you say that he said about stopping
shooting? What did you say to him preceding that?

A When I went in there and talked to him, and he spoke to
me about Inspector McPherson being there the night before,
and that there was no trouble, and he said, "I have not
seen Inspector McPherson around here tonight", and I says
"I was in charge last night, and I am also in charge to-
night." He says "All right, there won't be any more shoot-
ing."

Q Was that all you said, or couldn't you be sure about that?
You might have said more than that, might you not?

A I don't think so.

Q Didn't you say, in addition to that, "We have got men around your house; we have got them in the alley; we have got them on the side; we have got them on the front," and then he said "there will be no more shooting?"

A I believe I did.

Q You think you said that?

A I think so.

Q That is what you are reported, in the preliminary hearing, so you probably did say that?

A Yes, I won't deny anything I said at the preliminary hearing.

Q And, immediately on your saying that, Sweet said there would be no more shooting, didn't he?

A To the best of my recollection.

Q I think that is what you said here. I will let it go at that, if you are satisfied with it. That is right, isn't it?

MR. TOMS: I think so.

Q And then at that time you did not know anybody had been hurt?

A I did not.

Q And you went out?

A I did.

Q Why didn't you search for guns?

A Why didn't I?

Q Yes.

A Because I didn't think it would be a good policy for

- one man to attempt to do that alone.
- Q Is that the reason you did not?
- A That is one reason.
- Q Was there any other?
- A I knew that they had called for help, and that it would only be a matter of a minute or so until other officers would arrive there.
- Q You knew who had called for help?
- A I sent Lieut. Schellenberger, myself, to call for help.
- Q Didn't you say this morning, the reason you did not, was because you went out and found them that there had somebody been called, and then you went right back in?
- A I didn't go back in there until the other officers arrived.
- Q How soon did they arrive?
- A I don't think for a minute or two after I came out of the house.
- Q You did not arrest Dr. Sweet when you went in the first time, did you?
- A I didn't arrest anybody, because I didn't know anybody had been injured.
- Q Well, that is what I was trying to get at. That is the reason you did not arrest them, isn't it?
- A When I went in there the first time -
- Q You did not know anybody was injured, until you got out?
- A That is it.
- Q And therefore you did not arrest anybody?
- A I didn't make no attempt to arrest anyone.
- Q When you got out, you found that somebody had been shot,

two men had received bullet wounds from some source, and by that time the other policemen had come up, and you went in and made those arrests, is that right?

A We did.

Q All of this you reported fully? I say, all of these things you reported fully to the Superior Officer, the superintendent I believe?

A Fully about the conversation that I had with the doctor, and one thing and another?

Q You might have left out something, or made more out of it, but you made a report, anyway?

A I made it just as brief as possible.

Q Did any of those officers report anything to you in writing, as to what they found out there?

A They did not.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q Was there a telephone in the house?

A In Dr. Szent's home?

A Yes.

A I am quite sure there was.

Q You did not use it?

MR. DARROW: Just a minute, I move that the answer be stricken out.

THE COURT: The answer may be stricken out.

Q (By Mr. Toms): Do you remember for certain whether there was a telephone there or not, Inspector?

A I wouldn't say positively.

Q You would not be positive?

A No, sir, because I didn't use any!

Q You didn't use any?

A No.

Q Charlevoix Avenue is a stop street, isn't it?

A Yes.

Q It is a through street?

A Yes.

MR. DARROW: Just what do you mean? What do you mean by a stop street, and a through street?

Q (By Mr. Toms): Under the ordinance, all vehicles are required to stop before entering or crossing Charlevoix Avenue, is that true?

A Yes.

Q It has a double car line on it?

A It has.

Q So that, automobiles approaching, on Garland Avenue, if the drivers complied with the ordinance, would all come to a full stop?

A They would have to.

Q Or before crossing the car line, they would probably come to a stop or slow up?

A The majority usually do.

Q Did that serve to cause some congestion on Garland Avenue?

A It would.

Q You say you saw automobiles come into Garland Avenue and stop and discharge passengers?

A Yes.

Q Did some of the cars stay right where they stopped?

A Yes.

Q And some drove on, after discharging passengers?

A I believe so.

Q Did they group themselves in any particular place, or were they scattered up and down the two blocks?

A No group anywhere on the street or sidewalk.

Q I mean automobiles, I am speaking of automobiles; were they in any particular place in those two blocks on Garland Avenue, or were they strung out promiscuously?

A Strung out along both north and south.

Q As they would be on any other street?

MR. DARROW: Well, I object to that question.

MR. TOMS: All right. I withdraw it.

Q You are not connected with the Detective Bureau, Inspector?

A I am not.

Q You are a uniformed inspector?

A Yes.

Q Uniformed officers are not placed in charge of criminal cases as a rule, are they?

A They are not.

Q That work is assigned to the Detective Bureau?

A It is.

Q And the work of gathering the evidence and preserving the exhibits falls to the detectives who are assigned to the case, and not to the uniformed officer?

A It does.

Q So that it was not a part of your duty, after the arrival of the detectives, to go any further in the investigation of the evidence or the preservation of the exhibits?

A It was not.

Q Did the people who got out of the automobiles get out in one place and congregate?

A They did not.

Q What did they do?

A Went on about their business.

Q Did you notice any of the cars in those two blocks were still occupied by people after they stopped; I mean, whether people stopped the cars and stayed in them; did you notice that?

A I couldn't say, I don't know whether they did or not.

Q Did you observe, did you see any such thing?

A Not that I can recall now.

Q Was there at any time any such disturbance as made it necessary for you to go to it?

A MR. DARROW: Wait.

A There was not.

MR. DARROW: Just a minute. I object to that.

THE COURT: Objection sustained.

MR. DARROW: I ask to have it stricken out.

Q (By Mr. Toms): Did you go

THE COURT: Just a moment, Mr. Toms. The question and answer will be stricken from the record. Then I make a ruling, I want counsel to wait until I have concluded.

MR. TOMS: I beg your Honor's pardon. I thought you had finished your ruling.

Q Did you go to any particular place in the neighborhood at any time because there was a disturbance in that place?

MR. DARROW: I object to that question.

THE COURT: Read the question.

(The question was read)

MR. DARROW: He has given his testimony as to disturbances. Whether that was the reason he went there, I object to it.

THE COURT: Objection overruled. You may have an answer.

A I did not.

Q (By Mr. Toms): Were there any disturbances -

MR. DARROW: Now, that I object to, "disturbance" is an uncertain word, and he has told what took place both on direct and cross. I do not believe that he has the right to characterize it.

THE COURT: I think it is a somewhat loose expression, but I do not see any harm in it, Mr. Darrow.

MR. DARROW: Very well.

THE COURT: I think I will take an answer to the question.

Q Were there any disturbances at any time - to finish my question - which required you to call officers to that place, or to go yourself?

A There was not.

MR. TOMS: That is all.

RE CROSS EXAMINATION

BY MR DARROW:

Q Officer, didnt you answer my question, when I asked you where the people went to, who got out of the automobiles, that you did not know?

A That I didnt know.

Q Yes, when they unloaded there.

A I dont recall whether I did or not. Some people got out and went about their business.

Q Didnt you answer me that you did not know where they went?

A Well, out that out a minute. I will ask you this: Did you know anybody who got out?

A Did I know any person?

Q Yes, any person who got out?

A Personally acquainted with them?

Q Yes, do you know them?

A No.

Q Do you know what their business was?

A No.

Q How do you know they went about their business?

A Because I didnt see them do anything.

Q Oh, that is the reason?

A Yes.

MR TOMS: That was their business, "doing nothing".

Q (By Mr. Darrow): You dont know where they went, either, do you?

A I dont know as I could say just where they went. There was people got out of their cars.

Q Do you know whether they were their cars or not? You dont know whose cars they were, do you?

A No.

Q Did you see them get out of the cars?

A Yes.

Q You dont know where they went?

A It may have been their own cars.

Q Yes, and they may not, may they not?

A Probably.

Q You dont know where they came from or where they went to; you do not know, is what I am getting at?

A I couldnt say definitely that I knew just where they went to.

MR DARROW: Now, there is one more matter, and just two questions I overlooked, and perhaps he does not know about it.

Q You would call stoning a house, throwing stones through windows, a disturbance, wouldn't you?

MR TOMES: Just a minute. I object to that as calling for an opinion.

MR DARROW: The reason I do that is because you asked him whether he saw any disturbance.

THE COURT: I think, inasmuch as I allowed him to answer the other question, I will take an answer to this.

MR DARROW: That is the reason I asked this.

Q You would call that a disturbance, wouldn't you?

A Yes, if I saw anybody throw stones and break windows?

Q No, that is not my question. Stoning a house, or throwing stones through windows, you would call a disturbance, wouldn't you?

A I would call it a disturbance, or you could call it malicious destruction of property.

Q If you were there guarding it, you would consider it a disturbance, wouldn't you?

A If I was there guarding it, and I would see anybody doing that, I would lock them up.

Q But you did not know anything about that, that night?

A About anyone breaking any windows?

Q Yes.

A No, I did not.

Q Or throwing stones against the house or the top of it?

A Not until after the shooting.

Q Do you know anything about a colored man named Smith who passed Garland and Charlevoix Avenue between 8 o'clock and the time of the shooting, being assaulted, held up by the crowd?

MR TOMS: Objected to as immaterial.

Q (By Mr Darrow) Did you see any such thing?

MR TOMS: It would not be justification for the defense.

MR DARROW: Well now, that is a question.

THE COURT: What time, Mr. Darrow?

MR DARROW: Just before this, between 8 o'clock and 8:30.

THE COURT: You may have an answer, if you will fix the locality, and the time, so as to connect it with this offense, about the same time.

MR TOMS: There is a further objection, that unless that was brought to the knowledge of the defendants, it would not serve as justification.

MR DARROW: Your Honor, one of the questions here is the number of people there, what they were doing, the character of the crowd, which we say was a mob.

THE COURT: You may have an answer.

MR DARROW: That is the purpose of it.

MR HOLL: May I make the further objection to that, if the court please, because it would be impossible to rebut it without introducing evidence as to two separate and distinct offenses.

THE COURT: Ever since the witness has been on the stand he has been testifying to what happened there. Both sides asked him about it. I will permit the answer to the question now.

Q (By Mr Darrow) Did you know of any such thing?

A What is the question?

Q A colored man driving past there, between 8 and 8:30 that night, by the name of Smith, who was assaulted and stopped by a considerable number of people? Did you hear of any such thing?

A Do I know of any such thing?

Q Yes.

A I dont know any of it.

Q This is your first hearing of it, I suppose?

A Yes, it is.

Q Do you know about another colored man named Schaeffer, on the first street east of Garland avenue, right near Charlevix--

MR TOL: St. Clair?

(By Mr Darrow) St. Clair street, who was stopped and beaten

up about the same time?

MR HOEL: I will ask counsel--

A I did not.

MR HOEL: (Continuing) --to fix the time with reference to whether it was before or after the shooting?

MR DANNOW: Before the shooting, both of them.

MR HOEL: Just before.

THE COURT: You may answer.

Q (By Mr Darrow) You dont know about that, if it ever happened?

A I do not.

THE COURT: Is that all?

MR DANNOW: That is all.

THE COURT: We will take a recess at this time.

(Short recess taken)

BY MR. DARROW:

Q Just one question, officer. Officer, I asked you about two men, whether you had seen them, and you said no, and I showed you they came along very soon before the shooting. One of them, Schafer, I find came along right after, immediately after this. I was mistaken on that. You did not see him there, did you, you did not see any such thing occur after the shooting?

A I did not.

Q I did not.

MR. MOLL: That is all.

C L A U D E M A S S E Y, being duly sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Mr. Massey, what is your official connection with the city of Detroit?

A An engineer in the city engineer's office.

MR. DARROW: Is that for these maps?

MR. TOMS: Yes.

MR. DARROW: I do not think there will be any trouble about -- well, as to the correctness of the maps, I do not think we will raise any question. If we find anything was not exactly as the map shows, why, we have the right to correct it afterwards, of course. Probably

it is all right. As to its admissibility and as to any locations on it, I think there might be a question. I do not think you need to use this witness for the correctness of it.

MR. TOMS: Well, you concede that they are authentic?

MR. DARROW: As far as the correctness of the measurements and location and all that. It might be that if all your notations made on it, and we might object to it.

MR. TOMS: There are no notations other than measurements.

MR. DARROW: All right then. Do you want to object to the admissibility?

MR. HAYES: Yes.

MR. DARROW: But to the correctness you do not?

MR. HAYES: No.

MR. DARROW: No questions. That is drawn to scale, is it not?

A Yes, sir.

MR. TOMS: Mark this Exhibit 1.

(A sketch is marked Exhibit 1.)

MR. DARROW: That is for identification, is it not?

MR. TOMS: Yes. Exhibit 1, a diagram purporting to be drawn to scale of the intersection of Charlevoix and Garland Avenues. May it be offered and accepted in evidence by consent?

MR. DARROW: No, we shall object to it.

MR. HAYES: As to the correctness of it - -

MR. TOMS: Let us offer it in the regular way.

MR. DARROW: We do not concede that any measure-

ments that the prosecutor - -

Q I show you this diagram, marked Exhibit 1, and ask you if you made it?

A I did.

Q Are you a draftsman connected with the city engineer's office?

A I am, sir.

Q Of how many year's experience?

A Fifteen.

Q You made this map yourself?

A I did.

Q Did you make it from measurements taken by yourself at the corner of Charlevoix and Garland?

A No, sir, from the records of our office.

Q Oh, this is made from the records, the official city records at the city engineer's office?

A Yes, sir.

Q All of it?

A Yes, sir.

Q Do those records show the location of buildings on lots?

A No, sir. I located those myself on the day I was out there.

Q Then as to the location of those two squares marked "house", you did not get that from your city records?

A No.

Q But from your own measurements on the premises?

A Yes.

MR. HAYES: Unless we have not made ourselves clear, we do not insist upon any foundation being laid for this. That is not the point of our objection.

MR. TOMS: What is it?

MR. HAYES: I object to anything going in evidence that is not material in the case. If there are ~~extra~~ particular measurements that are material, or particular things that are material, we will admit them as those things come up. Aside from the fact that getting some general idea of the locality in mind, on that I think has been provided by what we have a greed upon the prosecutor doing -- we have all in our minds the pictures on this blackboard. It is much more convenient for all of us. We can all see it from here and the jury can see it from there. I do not think the map is material.

MR. TOMS: It is not drawn to scale, it does not purport to be accurate, and it has not got the distances. I offer Exhibit 1 in evidence.

MR. HAYES: We object to Exhibit 1, anyway, because there are notations on it.

MR. TOMS: What notations?

MR. HAYES: Let us point these out to the court. I would rather not argue about it.

MRx (Counsel confer with the court.)

MR. TOMS: Is the objection to the admission of

exhibit 1 now withdrawn?

MR. DARROW: Yes. Is that the same as the other one it is, is it not?

MR. TOMS: No. Exhibit 1 may be received, your Honor, without objection.

MR. DARROW: There is no objection.

THE COURT: Yes.

MR. TOMS: Mr. Reporter, will you go over there and mark that Exhibit 3?

(Sketch marked Exhibit 2.)

Q I show you Exhibit 2, consisting of the diagram on two sheets, and ask you if you made them?

A Yes, sir, I did.

MR. DARROW: There is no objection to that either.

MR. TOMS: Exhibit 2 may be received?

MR. DARROW: If we find there is anything different - -

MR. TOMS: Subject to your checking it, if you care to.

MR. DARROW: As to the correctness of it.

MR. TOMS: All right.

THOMAS A. DWYER, being duly sworn
on behalf of the People, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Mr. Dwyer, what is your position with the Detroit Police

Department?

A Police photographer.

MR. DARROW: What is the name?

MR. TOMS: Dwyer.

A D-w-y-e-r.

MR. DARROW: Police photographer. You took them, did you?

A Yes.

MR. DARROW: He is a good honest fellow, all right.

THE COURT: Proceed.

MR. TOMS: The genuineness is conceded?

MR. DARROW: Yes.

(Photographs were marked Exhibit 3 to 7 inclusive.)

MR. TOMS: Exhibits 3, 4, 5, 6, and 7 are offered in evidence and no objection made. They may be admitted by consent?

THE COURT: They may be received.

MR. TOMS: Exhibit 3 bears the notation, 2,905 Garland Avenue, showing south and east side, and broken window in upper part of house, on the east side, taken September 10, 1925.

Exhibit 4, showing east and north side of 2905 Garland Avenue, taken September 10, 1925.

Exhibit 5, showing holes in steps of 2914 Garland Avenue, taken September 10, 1925.

MR. DARROW: 2914 was the house next to the store there, wasn't it?

MR. TOMS: That is the one.

MR. DARROW: Where this man was sitting?

MR. TOMS: Yes.

MR. DARROW: We might just as well know that.

MR. TOMS: Exhibit 6, showing the rear of 2905 Garland Avenue, September 10.

Exhibit 7, Garland Avenue, looking north from just south of Charlevoix Avenue.

Now, we have a number of other photographs showing details. See if you have any objection to them.

MR. DARROW: Do these indicate on the back what they are?

MR. TOMS: Yes.

MR. HAYES: When were these photographs taken, Mr. Toms, how long after?

MR. TOMS: Within a few days. These were taken on the 10th. These were taken the day following. Mark these.

(Photographs marked respectively Exhibits No.

8 to 23, both inclusive.)

MR. TOMS: If the court please, I have had a number of photographs numbered Exhibits 8 to 23, inclusive. Counsel for the defense admit the authenticity of these photographs, admit that they are correct photographs. Whether or not they are admissable is to be reserved by consent until tomorrow morning, but their authenticity, their veracity is conceded now.

MR. DARROW: Yes, that part is all right.

MR. HAYES: We do not question that. Our posi-

tion is that they are not admissable because they emphasize certain features of the case; that there is a limit to how many photographs may be put in. We contend that there are enough in here now to give the jury an idea of what we are talking about, and that so many would emphasize certain features of the case.

PAUL SCHELLENBERGER, being duly sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION

BY MR. MOUL:

Q What is your full name?

A Paul Schellenberger.

Q You are a lieutenant of the Detroit Police Department?

A I am.

Q And you were on the 8th and 9th of September of this year?

A I was.

Q You were attached to which precinct at that time?

A Fifth.

Q That is known as the McClellan Avenue Station, is it not?

A It is.

Q Of which Inspector Schuknecht is in command?

A Yes, sir.

Q Are you familiar with the intersection of Charlevoix and Garland Avenues in the city of Detroit?

A I am.

Q Were you in that neighborhood on either the 8th or 9th

of September of this year?

A I was.

Q What were you there first?

A The night of the 8th, the evening, and on the evening of the 9th.

Q With whom were you on the night of the 8th of September?

A With Inspector Schuknecht.

MR. DARROW: How is that?

A With Inspector Schuknecht.

Q Did you leave the station with him on that evening?

A Yes, sir.

Q What was your purpose in going there to that neighborhood?

A He just asked me to go with him in his car and I accompanied him.

Q Were there men detailed around the house that evening?

A There were.

Q How ~~many~~^{long} were there on that night?

A I should say until around nine thirty, quarter to ten.

Q Going there at what time?

A A little after seven in the evening.

MR. DARROW: This is the 8th.

Q This is the 8th. Did you notice any disturbance of any sort there on that evening?

A None whatever.

Q Did you notice any crowd congregating in the immediate neighborhood of that house?

MR. DARROW: I object to that. I do not object to him telling what he saw, but as to characterizing it,

saying it was a crowd, a congregation. Let him describe the situation.

MR. MOLL: I withdraw that last question.

Q Did you see any number of people congregating in the neighborhood of the house on the evening of the 8th?

MR. DARROW: I object to congregating, your Honor.

Q Well, did you see any people in the immediate vicinity at the house?

A There were people passing by on the street.

Q Did any of those people stop?

A There were some that did stop for a moment and then passed on.

Q Did any of them stop longer than a moment?

A No, I did not say that they did.

Q Were they just individuals or several persons who stopped at that time?

A There would be several people at one time would stop, and if they remained any unreasonable length of time, they were asked to move on by officers who were in that vicinity.

Q How many persons stopped at any one time?

MR. DARROW: If you know.

Q Within your observation, of course?

A I should say not more than five or six people, possibly seven.

Q At any one time?

A At any one time, yes.

Q Yes. Where would they stop, or where did they stop?

A Some at the immediate corner, some on Garland and probably

twenty five or thirty feet north of Charlevoix; probably would be one or two on Charlevoix; probably 25 or 30 feet west of Garland.

Q How is Garland Avenue built up?

A It is.

Q And it is a residence section, is it not?

A It is.

Q How about Charlevoix Avenue?

A Charlevoix is mixed considerably.

Q When you say mixed, what do you mean, do you mean residence and business?

A Business and residence; business purposes and residence.

Q Did you see anyone enter or leave the Sweet house, 2905 Garland Avenue, on the evening of the 8th?

A I did not.

Q Did you see anyone throw anything out of the house?

A I did not.

Q And you say, I believe, that you saw no disturbance of any kind on that evening?

MR. DARROW: Just a minute, I object to that.

A No.

MR. DARROW: I am going to object to "anything that he saw."

MR. MOLL: We have been using that expression, if the court please, through the taking of ^{the} testimony.

THE COURT: The answer has been made. It is harmless.

MR. MOLL: I am sorry I did not hear your Honor.

THE COURT: I say the answer has been made and it is harmless. It may stand.

MR. HAYES: May I ask that all this testimony be taken subject to my motion to strike out, if it is not connected.

THE COURT: Yes.

Q Now did you return to the station on the evening of the 8th with Inspector Schuknecht?

A No.

Q You went back alone?

A Yes, sir.

Q You say you returned on the following evening?

A Yes.

Q At what time?

A Seven or possibly a few minutes thereafter.

Q You were with Inspector Schuknecht all that evening?

A Yes, sir.

Q From that time I will ask you to state whether or not you remained in the vicinity until the time of the shooting?

A We did,

Q What time was the shooting as you fix it?

A It was 8:25.

Q I beg your pardon?

A 8:25.

Q So you were there approximately an hour and a quarter or an hour and a half?

A Yes, sir.

Q How were they men detailed, were there police officers

detailed around the house that evening?

A Yes, sir.

Q From your station?

A Yes, sir.

Q Were they all in uniform, if you know?

A To my knowledge, there were.

Q There were how many of them, as you remember?

A Oh, there were possibly six or eight officers there.

Q Do you know whether or not they had designated beats ?

A I heard the lieutenant give them designated beats when they left the station.

Q And that was at what time?

A In the afternoon at 3 o'clock.

Q That is when you changed shifts?

A Yes, sir.

Q Now was there anything that attracted your attention particularly to the house on the corner while you were there in the vicinity during that hour and a quarter or hour and a half of the evening of the 9th?

A That attracted my attention?

Q Yes. Did anything go on, with the exception of the fact that police officers were stationed around the house, that would attract your attention to the house?

A None whatever.

Q Did you see anyone enter or leave the house that evening?

A No, sir.

Q I am speaking now of the 9th. Did you see any of the occupants of the house?

A

A No, sir.

Q Do you remember whether you saw anyone on the porch?

A I did not.

Q Was it light or dark when you got there?

A Dark.

Q Dark?

A Growing dark, yes.

Q Dusk, would you say, or dark?

A Dusk at that time.

Q Were the street lights lighted?

A When we first went there, I do not remember whether they were or not. That was at present. I do not recall whether they were lit or whether they were not.

Q Now what did you do while you were in the vicinity on the night of the 9th?

A Just walking around, looking the neighborhood over, looking after anything that might be told to the men to do, the orders, to see that were carried out, if I did give one, if it was necessary.

Q And this was about dusk, you say?

A Yes, sir.

Q Now, did it get dark before the shooting?

A Yes, sir.

Q Do you know whether the street lights were lighted before the shooting occurred?

A They were.

Q Are you familiar with the location of the street light at that intersection, if there is one there?

A

A Yes, sir.

Q Where is it?

A It is hanging on the -- I won't attempt to answer that because I am not positive.

Q Well, I will show you this picture that was introduced in evidence, Exhibit No. 7, and ask you if that is a fair representation of that intersection, showing the light?

A It is.

Q That hangs up in the southeast corner apparently or from a pole on the southeast corner?

A It does.

Q Into the center of the intersection?

A That is correct.

Q That light, you say, was lighted before the shooting?

A Yes.

Q Now on that evening on the 9th, during the time that you were in the vicinity, did you see any disturbance?

A No, sir.

Q Did you see any persons in the immediate vicinity at the house, of the Sweet house?

A There were people passing by on the street.

Q Were any of those persons allowed to stop on the sidewalk in front of the house?

A Only for a moment. If they remained there for more than a minute, why, they were asked to move on.

Q As I understand it, there was a police officer stationed on the north side of Charlevoix and the south side of the Sweet house?

A That is right.

Q And also a police officer stationed on the west side of Garland in front of the Sweet house?

A That is right.

Q That was their beat, was it?

A Yes, sir.

Q Did you see any disturbance of any kind?

A None whatever.

Q Now, how was your attention attracted to the shooting?

A Why, the discharge of firearms; I could see the flash of powder coming from the windows in the dark.

Q Where were you at the time your attention was attracted to the shooting?

A Standing on the southeast corner, with Inspector Schuknecht, right under the light.

Q You were in uniform?

A Yes, sir.

Q You had the summer uniform, blue uniform, with white top cap?

A Yes, sir.

Q Now from which windows did the firing come, or the shot come?

A I saw the shots, or the fire flash, rather, from the windows on the eastside of the house upstairs, and from the windows on the south side of the house upstairs.

Q When you speak of the east side, you mean the front of the house facing Garland?

A Yes, sir.

Q When you speak of the south side, you mean the Charlevoix Avenue side?

A Yes, sir.

Q How many shots were fired?

A Well, I really could not say.

Q Well, approximately?

A Oh, possibly fifteen or twenty or more.

Q Were they shot in one volley, or was there an intermission between the shots?

A They were shot in one volley.

Q Could you determine whether ~~the~~ shots came from any other sides of the house?

A Not from the position where I was.

Q You could not see the rear of the house?

A No.

Q And you could not see the other side of the house?

A No.

Q That is, the north side of the house, but you did see shots come from the front and the Charlevoix side of the house?

A Yes, sir.

Q Were those shots from upstairs windows or from the downstairs windows?

A Upstairs windows.

Q Now at that time was the house lighted or in darkness?

A It was in darkness.

Q After it got dark and at any time before the shooting, did you see any lights in the house or any part of the house?

A No, sir.

Q Now after the shooting stopped, what did you do?

A Why, I sent a man to the hospital and entered the house.

Q Did you go to the house?

A I did.

Q Did you go there with the inspector?

A No.

Q Now just tell us what happened after the shooting, tell us what Inspector Schuknecht did, so far as you know, and what you did?

A He ran to the house, and I ran to a telephone and called for the reserves.

Q Where was the telephone that you went to?

A This telephone was about half way in the block east of Garland Avenue on the north side of Charlevoix, in a garment store.

Q In what?

A In a garment store, a ladies wearing apparel store.

Q And then what did you do after phoning?

A I got back to the corner of Charlevoix and Garland and a man told me that there was a man in a tire store shot, and I immediately ran back. I said where is the tire shop, and he showed me, and I immediately ran back. I passed that store where I had did the telephoning, and there I found a man who was shot in the leg in the knee.

Q Where was this tire store?

A Corner of the alley, half a block east of Garland on Charlevoix on the north side of the street.

Q. That would be the alley where Mr. Toms is pointing?

A. Yes, sir.

Q. Do you know the identify of that man?

A. That was shot?

Q. Yes?

A. Nothing further than his name.

Q. What was his name?

A. Eric Holberg.

Q. Do you know where he lived?

A. No.

Q. Do you know where he was when he was shot?

A. No.

having

Q. Now, ~~xxxxxx~~ seen that man in the tire store, what did you

do?

A. I called the wagon and sent him to the hospital, and I returned then to the Sweet residence, and there I met some other officers and Inspector Schuknecht.

Q. Had the flyer arrived then?

A. The flyer had arrived.

Q. Had the reserve flyer arrived?

A. Yes, sir.

Q. Were there officers in the house?

A. Yes, sir.

Q. Just tell us what you saw when you entered the house?

A. I saw some colored people in the house, and I saw officers, and there were weapons. The officers were searching for weapons. Some were upstairs. Some came down with weapons in their hands.

Q You are speaking now of officers or inmates of the house?

A Officers, and I started to search also, and I did; found a revolver under the radiator in the front room downstairs, loaded.

Q Let me interrupt you just a minute. When you entered the house and found officers there, was the house lighted?

A It was then.

Q Or were they working with flash lights?

A There was one dim light burning.

Q Where was that light?

A That was in the dining room I believe.

Q An electric light, was it?

A Yes, sir.

Q Where were the inmates of the house at that time?

A They were all standing downstairs altogether with the officers.

Q In what room?

A In the dining room somewhere, and some were in the front room.

Q Well, they were all downstairs at the time?

A They were all downstairs.

Q Now, you have seen all these defendants here present in court, haven't you?

A I have.

Q Do you recognize and identify them as inmates of the house?

A I do.

Q They were placed under arrest that evening?

A Yes, sir.

Q You say that you took part in the search of the house and that under the radiator in the front room you found a gun, is that right?

A Yes.

Q I show you Exhibit No. 24, which appears to be a United States revolver, bearing No. 26,665, and ask you if you ever seen this gun before?

A Yes, sir.

Q Is that the gun that you described in your testimony?

A It is.

Q State whether or not it was loaded at the time that you found it?

A It was.

Q How many cartridges did it have in it?

A Six or five.

Q I guess you better look at it.

A Five.

Q Were any of them discharged?

A No, sir.

Q Did you unload the gun?

A I did.

Q Did you examine the gun to see whether or not it had been fired?

A No, sir.

Q You did not?

A No, sir.

Q What did you do with the cartridges that you took from the gun?

A Turned them over to Sergeant Mahlmeister, and also the

gun.

MR. MOLL: I will offer this gun in evidence as Exhibit No. 24.

THE COURT: It may be received.

Q You say you turned it over to Sergeant Mahlmeister. Was that in the house that evening?

A No, I gave it to him on the street.

Q Do you recognize this as the gun?

A Yes, sir.

Q Did you find any other weapons?

A I did not.

Q Did you see any other weapons found?

A Yes, sir.

Q In your presence?

A Yes, sir.

MR. HAYES: Of course, your Honor, these constructions two things going in evidence are likewise subject to this motion to strike out later on if they are connected.

THE COURT: Yes, that will be understood.

Q Can you give us an accurate description of the weapons that were found by other officers in your presence, or did you take an accurate description of them?

A I did not.

Q Were you in the kitchen of this house?

A I was. I looked in the door.

MR. HAYES: Bring them all in, put them all in.

MR. MOLL: We will bring them all in.

Q Can you describe the kitchen for the court and jury?

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A No, I cannot to make it sufficiently plain, because I only had one or two steps I believe inside the kitchen. It paid very little attention.

Q Did
/You see whether or not there was anything on the stove?

A Yes, there was. There was a gas stove there, and there was some meat sitting in a pan or a roaster, as you may term it. I paid no attention as to what kind of meat it was. I was not interested in that part of it.

MR. DARROW: You had your dinner, I suppose.

Q Was there anything else on the stove?

A Why, there was some things sitting around. I did not take a great deal of interest in it. There was a quantity of food around there.

Q Did you examine the pantry to the rear of the kitchen, according to the diagram there?

A No, sir, I did not.

Q Do you know whether or not - -

A I think the pantry door was open at that time.

Q Do you know whether or not there was any foodstuffs in that pantry?

A I could see foodstuffs on the shelves there, but I don't know what they consisted of.

Q I presume you entered the house by the front door, did you?

A I did, yes, sir.

Q Was your attention attracted to the little clothes closet or vestibule, I suppose it is a clothes closet, just to the right of the hall as you enter, right here (indicating)?

A There is one there, yes, sir.

Q Did you enter there?

A No, sir.

Q Did you examine into that room?

A No, sir.

Q Do you remember how the living room was furnished, if it was furnished?

A There was not any furniture in it at all. There was a blanket and a mattress laying on the floor.

Q Where was that, in what part of the room?

A Right alongside of the windows on the south side of the house, on the Charlevoix side, laying on the floor.

Q The windows on the Charlevoix side?

A Downstairs windows, yes.

Q There are windows here on the Garland Avenue side on the front of the house?

A Yes, sir.

Q Are those the windows that you refer to?

A No, on the Charlevoix side.

Q There are also windows here on either side of the fireplace, according to the diagram?

A Yes.

Q That mattress then was in front of the fireplace, was it?

A Not quite in front of the fireplace, no.

Q But it was on the Charlevoix Avenue side of the house?

A It was.

Q And that was the only furniture or article in the room?

A That is all.

Q Was the dining room furnished?

A No, sir.

Q Was the room in the rear of the dining room furnished?

A No, sir.

Q Did you go upstairs?

A No, sir.

Q Did you have any conversation with any of the inmates of the house?

A Not a bit.

Q Did you accompany any of the prisoners to police headquarters?

A I accompanied them all to police headquarters.

Q How were they taken to police headquarters?

A In the auto patrol.

Q Do you know whether or not any cartridges or weapons were found in the patrol on your arrival at police headquarters?

A I do not know of my own knowledge.

Q Did you go upstairs in police headquarters?

A Yes, sir.

Q Do you know of your own knowledge whether any ammunition was recovered there, or did you see any up there?

A I did not, other than what was in the bag that we brought with us from the house.

Q Well, that was ammunition that had been found as a result of the search of the house, was it?

A Yes, sir.

Q Do you know what that bag contained?

A It contained shotgun shells and revolver cartridges and rifle cartridges.

Q About how many shotgun shells?

A I don't know. If I remember right, there were several boxes of them or a box and a half or probably two boxes and a half. I paid little attention to that. There was one of the other officers had the shells in charge, and I did not look into it, only just glanced into it, that is all. It was open.

Q Were there rifle cartridges too?

A There were.

Q You could not estimate the number of them?

A I could not.

Q Or the revolver cartridges?

A I could not.

Q Did you personally recover any ammunition inside the house?

A No, sir, nothing other than what was in that revolver that I saw.

MR. MOLL: Cross examine.

MR. DARROW: Your Honor, do you want us to go further tonight? I would like to look over this witness' testimony before. I suppose it is pretty near adjourning time, is it not?

THE COURT: Well, I had intended to run until five o'clock, but if you prefer it, Mr. Darrow - -

MR. DARROW: I will go on.

THE COURT: Possibly you are somewhat tired.

MR. DARROW: Well, I am, I did not get out to get any lunch. Still I consider the jury here.

THE COURT: We will adjourn then until tomorrow
morning at nine-thirty.

(Adjournment.)

THE
SWEET
CASE

VOLS

1 2 3 4 5 6 — 8

STATE OF MICHIGAN
IN THE RECORDERS' COURT FOR THE CITY OF DETROIT

THE PEOPLE
-vs-
OSSIAN SWEET,
et al.

Testimony taken before the Hon. Frank J. Murphy,
and a Jury, Friday, November 6th, 1925.

APPEARANCES:

Present same as before.

ARTHUR WEINBERG
2334 E 68TH ST
CHICAGO 49 ILL

*225-000
262-264 will be...
See...
(Case...)
New York...*

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- - - - -

Friday, November 6, 1925

9:30 o'clock A.M.

Court convened pursuant to adjournment, with
all parties present.

P A U L S C H E L L E N B E R G E R, recalled
for cross examination, testified as follows:

CROSS EXAMINATION

MR. MOLL: Ready to proceed, your Honor? I had finished my direct examination.

MR. DARROW: Have you finished? Schellenberger, is that the name?

MR. MOLL: Schellenberger.

BY MR. DARROW:

Q How long have you been on the police force in Detroit?

A A little more than 13 years.

Q Commenced a patrolman?

A Yes, sir.

Q What is your position at this time?

A Lieutenant.

Q And how long have you lived in Detroit?

A 15 years.

Q Where was your native home?

A State of Ohio.

Q When did you first hear that Dr. Sweet was going to move up there on Garland Avenue?

A (No answer).

Q Well, if you can get down to the -

A Well, possibly two or three weeks prior.

Q You say weeks?

A Two or three weeks, yes.

Q Before he did move?

A Yes.

Q Heard it from some officer, did you?

A Yes, sir.

Q Now, I don't - did you answer that last question? You heard it from somebody on the force?

A Yes, sir.

Q Do you know who?

A My inspector.

Q What is his name?

A Inspector Schuknecht?

Q Oh, yes. You and he in the same district?

A Yes, sir.

Q Did you have anything to do with the matter up to the time that you went out on this day?

A Anything to do with the matter?

Q Yes. I mean, was it - were you in any way watching it?

A No, sir.

Q How did you happen to go out on the 8th - - 8th was the day before the shooting?

2 A Because I knew there were men there, and it was of as much interest to me as anyone else to go there.

Q Anybody ask you to go?

A My inspector.

Q And he was there at the same time?

A Yes, sir.

Q You had authority? What time in the morning did you go there, what time of the day rather?

A Around 7 P.M. in the evening.

Q You say there were no knots of people that numbered more than five or six or seven?

A No.

Q How many of them were there?

A Oh, there was possibly three or four of those small groups standing on Charlevoix, maybe one group on Garland Avenue across on the other corner.

Q And you ordered them to disperse, go on about their business?

A The patrolmen would, yes, if they remained there any -

Q Did you do it?

A No, sir.

Q Did you talk to any of them?

A No, sir.

Q You then saw a patrolman go and order them to go?

A Yes, sir.

Q Practically order them to disperse? You didn't hear what any of them said in those groups, did you?

A No, sir.

Q Or you didn't try to find out what they said?

A No, sir.

Q So what they said, you don't know?

A No, sir, they had their orders as to what to say.

Q That was to tell them to stop congregating and go on?

A No, sir.

Q What was it?

A Please pass on.

Q Please pass on?

A Yes, sir.

Q I didn't make it polite enough. It amounted to about the same thing, I suppose. If they didn't, why you probably have done it about the way I said the second time. You did not know any of the people out there, I take it; vi

A Civilians?

Q Yes.

A No, sir.

Q You don't live in that section?

A Not in the immediate section, no, sir.

Q How far away?

A Possibly 15 blocks.

Q Well, you saw nobody outside of officers whom you did know?

A No, sir - yes, sir, I did.

Q Who?

A A man by the name of Mr. Lemhagen.

Q Where does he live?

A I couldn't say, sir.

Q What is he doing?

A He is employed by the Telephone Company, City of Detroit.

Q Well, he was directed to come there, wasn't he, or don't you know?

A I don't know, sir.

Q Well, outside of him, you didn't see anybody you knew?

A No, sir.

Q You don't know how many officers were stationed there, do you?

A Not exactly, sir.

Q Did you have any information except as you saw them? I mean, nobody told you, or you didn't have anything to do with placing them yourself?

A Not directly no, but I could move them if I saw fit to do so.

Q Yes, on account of your official position?

A Yes, sir.

Q But, as a matter of fact, this was not under your special charge, and you probably didn't know any of the officers except as they were uniformed, did you?

A No, I didn't pay much attention to the officers, any of them as far as they were concerned, there wasn't any reason why I should give them any special attention as to their names, and so forth and so on.

Q They had their directions?

A They had their orders in the station as to what to do before they left at 3 P.M. in the afternoon.

Q Were you there when they were given?

A Yes, sir.

Q Did all the officers have uniforms, or don't you know?

A Yes, as far as I know they did.

Q And you said there were some - how many?

A Oh, seven or eight possibly.

Q Was that outside of you people who were officials?

A Yes, sir.

Q Seven or eight patrolmen?

A Yes, sir.

Q With uniforms?

A Yes, sir.

Q And there was one sergeant there with you also?

A Yes.

Q Well, the seven or eight were patrolmen, I suppose?

A Yes, sir.

Q And the others were officers?

A Yes, sir.

Q Now, if there were any plain clothes men, you didn't know about them?

A Not to my knowledge, sir.

Q Had you known Dr. Sweet?

A No, sir.

3 Q You didn't go into the house either of the days that you were there, Dr. Sweet's house?

A Not before the shooting, sir.

Q Yes, I mean before the shooting?

A No, sir.

Q Did you call - were you called there for the purpose of helping to protect the property?

A Yes, sir.

Q Did you yourself talk with anybody out there?

A No, sir.

Q Did you go into any other building?

A Nothing other than when I called for the reserve flyer,

when the shooting started.

Q Up to that time you didn't go into any building?

A No, sir.

Q You didn't talk with any of the citizens around there?

A No, sir.

Q And of course you didn't send any word to Dr. Sweet of any kind?

A No, sir.

Q You saw the house there and you knew in a general way the doctor and some others were in the house?

A I didn't know whether anyone was in the house or not.

Q You had been informed of that, hadn't you?

A I had been told so.

Q That is what I mean by that?

A Yes, sir.

Q You had been told they were in there?

A Yes, sir.

Q Any automobiles either on the first or second day drive up there and people come out from the machines?

A Get out for where, or what?

Q Getting out around an corner, around that house anywhere?

A Oh, yes.

Q How many?

MR. MOLL: Just a minute. I shall object to that unless it is within the knowledge of the witness.

MR. DARROW: Certainly, officer. I don't want you to answer any of these questions except what you know yourself, what you saw yourself.

Q Did you see any?

A I saw cars drive up and stop within half a block, and directly at the intersection, people get out and walk away, but I never saw no car drive up and anybody go into Dr. Sweet's home.

Q No. You knew -

A It was a common ordinary custom for people to do that.

Q I object to that. Just answer my question. You saw cars driving up within a block and unload and people get out of them?

A Yes.

Q Both days?

A Yes.

Q How many people were around the house in that immediate vicinity? on the - - at any time on the 8th?

A Well, -

Q In your judgment?

A I don't know - there would possibly be ~~from~~ maybe forty or fifty people, probably more. They were people -

Q I didn't ask you who they were. Probably more? Probably how many?

A Well, I don't know. I didn't count them. Possibly forty or fifty or sixty people.

Q Give your best estimate. Now, we are speaking about the 8th that is -

A Yes, sir.

Q That is what I referred to?

A Yes.

Q Weren't there a good many more than that?

A I wouldn't say so.

Q You didn't talk - well, - you have already said that you didn't talk to any of them?

A No, sir.

Q Did anybody tell you the names of any of them?

A No, sir.

Q You left at about 7:30 on the 8th, did you say?

A Left there?

Q Or went there about 7:30?

A Yes, around shortly after 7 o'clock.

Q That is, you went there at that time?

A Yes, sir.

Q Or after that time?

A Yes, possibly it may have been 7:10.

Q I don't care for the exact time. If I tried to come closer, I will tell you. You testified at the preliminary hearing in this case, didn't you?

A Yes, sir.

Q Have you got the -

MR. MOLL: Yes.

Q Page 84, at the bottom of the page; was this question asked you, and did you make this answer:

"Q. How many people were around that house on the night of the 8th at the time you got there, 7:30?

A. I should say possibly 100 or 150 people."

A Possibly I did make that statement, and possibly I made

that answer. There may have been that many there.

Q Do you want to see this (indicating)?

A No, sir.

Q Well, you meant, of course, to state it the way it was at that time?

A I should say there were in the neighborhood of that. I did not look to count them.

Q No, no.

A I don't know exactly, but that was -

Q Whatever you said, you meant to tell the truth, of course?

A Certainly.

Q As you do now?

A Certainly, ^Q And that hearing was on - a few days after the - beginning on September 16th wasn't it?

A I don't remember the date.

Q I don't suppose there is any question about that, is there?

MR. NELSON: Probably the day following.

Q I might have been the day following. You know it was then. I wouldn't say what time it happened.

A Yes, sir.

Q Why did you go out there?

A Why did I go out there?

Q Yes.

A It was my duty to go there.

Q What was your purpose?

A The purpose was that inasmuch as there maybe a breach of the peace, I, being a superior officer, would be in command of the men, order them as to what to do for the protection

4 of life and property.

Q Why did you fear a breach of the peace?

A For the purpose that a short time prior to that time, on the west side of the city, there was a bad break over there whereby the colored family moved into a white neighborhood, - ~~xxx the~~ white people up there, and there was property destroyed.

Q The property of the colored man?

A Yes, and I didn't want -

Q You didn't want it to happen again?

A To have recurrence of that occasion, if it was possible.

Q You went down there think that there might perhaps be trouble, to protect - and help protect Dr. Sweet and his home?

A Absolutely.

Q That is what I supposed. In another place on that same day, in that testimony, - this is about the middle of 85, Mr. Moll - this question was asked:

"Q. There were possibly 150 to 200 people on the evening of the 8th?

A. There were."

Do you want to look at it? Mr. Moll will keep watch of it too.

A I don't deny it.

(Mr. Darrow shows the witness the transcript).

(Mr. Darrow checking up on that.)

Q You don't deny having said it at that hearing?

A No, sir.

Q I think I asked you before, and will you please tell me again, what time you left - about what time you left on the 8th?

A On the 8th, I think it was around - oh, if I remember correctly, about a quarter to ten, 20 minutes to ten possibly that evening.

Q So you stayed there in the neighborhood of two hours and a half?

A Yes, sir.

Q Where were you while you stayed there?

A I was just in the vicinity, walking around on the streets, and left there by myself.

Q Just walking around, I suppose, within a block of the place?

A Yes, as much as a block and a half.

Q A block and a half. While you didn't talk to anybody, except possibly an officer, you were looking out?

A Yes.

Q Watching there?

A Yes, sir.

Q Did you go home alone, or did somebody go with you?

A I went home alone.

Q And who was there when you left in the way of officers, if anybody?

A Oh, there was two sergeants there, if I remember correctly, and patrolmen, the inspector was there.

Q All the patrolmen there that you have already spoken about?

A Yes, sir.

Q I guess I interrupted you. The inspector was there?

- A He was there, yes, sir.
- Q And you probably went away alone?
- A I did go away alone that night.
- Q Did you notice any cars parked on these streets?
- A There were cars parked in that vicinity of the street, yes, sir.
- Q Whereabouts?
- A They were on Garland. There were cars on Charlevoix; well, for as much as the radius of a block around, a car here and there parked at the curb, people sitting in them.
- Q Did all of them have people sitting in them?
- A Not all, no.
- Q Some did not. Some had people sitting in?
- A Yes.
- Q Did you notice how long any people sat in the cars?
- A No, I did not give particular attention.
- Q You didn't talk to any of them, ask them why they were there sitting in the cars?
- A No, sir.
- Q You don't know where the cars came from?
- A No, sir.
- Q Any taxis come up there on the 8th and leave anybody in that vicinity, or don't you know?
- A Not that I know of. I didn't see any.
- Q Now, you went back there at what time on the 8th?
- A Around about 7 P.M., or a little bit thereafter.
- Q You were not there at all in the afternoon?
- A No, sir.
- Q You saw these officers again, or most of them?

A I did.

Q There were people across the streets - street, was there not, on Garland?

A Yes, sir.

MR. MOLL: Just a minute. Fix the dates.

Q This is the 9th.

A MR. MOLL: Thank you.

Q You understand me, don't you, officer?

A Yes, sir.

Q The night of the shooting?

A Yes, sir.

Q There were people around the school house?

A On the 9th?

Q On the 9th?

A Yes, sir.

Q There were people across on Charlevoix, the other side of the street across from this house?

A There were several people sitting on the steps of an apartment house.

Q And that apartment house comes out flush with the street, doesn't it?

A Yes, sir.

Q There is no yard in front of it?

A Not on the Charlevoix side.

Q I mean on the Charlevoix side?

A No, sir.

Q Well, now, when you speak of the steps, you speak of the Charlevoix side?

Q Or the Carland side?

A Yes, sir. Charlevoix.

Q These steps were on the Charlevoix side?

A Yes, sir, there are steps on the Charlevoix side, yes, sir.

Q Were you there when the order was given to block off Carland at the two streets?

A I was.

Q On each side of it?

A Yes, sir.

Q And you knew that was done?

A Yes, sir.

Q Did you know why it was done?

A Yes, sir, it was my order.

Q That was your order?

A Sent an officer to the station; I talked to my inspector about it first, and he agreed with me.

Q You advised that that street should be blocked off?

A Yes, sir.

Q How long were you there before you advised it?

A Oh, possibly 15, 20 minutes, or half hour, before I were there.

Q I beg your pardon?

A Before I were there? How long had I been there before I advised this?

Q That is what I said.

A Oh, possibly an hour.

Q Well, you said you got there about 7:30?

A Yes.

Q Was it 7:30 about?

A No, it wasn't 7:30.

Q I don't mean to hold you down to minutes. You couldn't answer that?

A No,

Q I might have quoted you wrong. About what time do you think you did get there?

A I should say possibly around 7:10, 7:15.

Q I guess you said 7 instead of 7:30. You say around 7:10 or 7:15.?

A Yes, sir.

Q You stayed there in the neighborhood of an hour before you advised blocking off these streets?

A Yes, I should say about an hour.

Q Were there a good many people drove up there before you gave that advice?

A Yes, there were.

Q A good many people unload there, didn't there?

A No, no, they didn't.

Q Some of them did?

A Some stopped, had motor cars, and their car proceeded, and some one else driving.

Q You didn't know any of those people, and know where they went to, or what their business was?

A No, sir.

Q But anyway, you thought it was a good precaution to stop - two blocks off that street?

A Stop vehicular traffic, yes, sir.

Q Stop what?

(The answer was repeated by the Reporter)

Q You did that with a view, of course, to protecting Dr. Sweet and his property?

A In a sense, and another for the benefit of the public, on account of the congestion of the narrowness of the street, and traffic being very, very heavy. The street car line is there also.

Q As far as your memory goes, you never blocked off that place before, did you?

A No, sir.

Q You never heard of it being blocked off?

A Not that particular point.

Q But one of the reasons, at least, that you did it, was to protect his property, wasn't it? You didn't want to take any chance?

A No, I wouldn't want to see it. I didn't want to have any more people around there than what was absolutely necessary. There were too many sight-seers passing by and stopping. To get rid of them and avoid any commotion of any sort, I ordered the streets blocked off.

Q Well, did that have any reference to Dr. Sweet?

A Reference in what way?

Q Any way whatever. Was it done in any way - any way, any part of your duties to make in favor for Dr. Sweet and his property?

MR. MOLL: I submit, if the Court please, that an answer to that question will call for a conclusion,

or the latter part of it, but I think it calls for a conclusion, something that should be argued for the determination of the jury when passing on the case.

THE COURT: The objection is overruled. You may have an answer.

Q If you don't understand it, officer, why, I will have him read it.

A I understand, I wish the stenographer would read it to me again.

MR. DARROW: Maybe I could do it successfully, Mr. Moll.

MR. MOLL: I don't know as I comprehend the entire question. I would like to have it read.

(The question was repeated by the Reporter)

MR. MOLL: Is that the whole question?

MR. DARROW: That is the whole question.

MR. MOLL: There was no answer to the first question.

MR. DARROW: Let me try one.

Q Did you stop blocking off that street?

A I did.

Q Well, -

A Yes.

Q Now, you answered it. Was that wholly or partially done for the protection of Dr. Sweet and his property?

A Both.

Q That is satisfactory. How long about, as near as you can get to it, did this happen after the street was blocked off?

A I say possibly ten minutes.

Q And during the last ten or fifteen minutes - I may have the

time wrong - if I have; you correct me - you were standing at the corner of Garland and Charlevoix with the Inspector, weren't you?

A Yes, sir.

Q Was that about ten or fifteen minutes, as near as you can get at it?

A I should say so.

Q And I suppose you were looking - you were watching and had your eyes opened to see what might be going on?

A Observing everybody that passed by as near as I could.

Q And listening, I presume?

A Yes.

Q And I assume your hearing is good?

A It is.

Q I wouldn't want you to admit it wasn't, because it might cause you trouble. It is ordinarily good anyway. You, of course, were using both your eyes and your ears?

A I were.

Q I mean, each one of them, and at this - strike that out. You didn't hear any stones rattling against the house, or any part of it?

A I did not.

Q You didn't hear any glass broken?

A I did not.

Q If there was a stone that went through the - or two stones went through the window scattering - breaking the glass while you were there, you didn't hear that, of course?

A I did not.

Q You didn't see anybody throw any?

A No, sir.

Q You didn't talk to anybody about any throwing any?

A No, sir.

Q Or throwing?

A No, sir.

Q There were officers back of the house, as you understood it?

A There were.

6 Q An officer named Gill was stationed back of the house, was he not, or don't you know?

A I don't know who the officer was that was stationed back there. I knew there was one there.

Q And in the main, of the ten or twelve, whatever it was, officers, patrolmen were circulating around?

A Yes, sir.

Q While they perhaps had a certain place^{to}/be a good share of the time, they were circulating around?

A Yes, sir.

Q They were going to the vicinity of the store - building adjoining the store and they were going over to the school ground, and to that apartment building across on Charlevoix, and around the streets, weren't they?

A Didn't keep any eye on every one of them, but I know they were in the vicinity.

Q I mean each one?

A They were around, yes, officers were around.

Q And were people gathered, how many any time? You say officers step up to them, and assume they gave them some

- A Yes.
- Q Or made some request?
- A Yes.
- Q And that was the general situation at that time of night, without being too specific?
- A Yes, sir.
- Q And for the last twenty minutes, Garland Street was shut off so that you couldn't get to Garland except from Charlevoix?
- A The people living in the block, they were permitted to pass there.
- Q But otherwise they were not?
- A Otherwise they were not.
- Q Weren't to be there, in the neighborhood, ^A If they were living in the block, they were permitted to pass - the officer.
- Q I beg your pardon.
- A To pass the officer if they would speak to him.
- Q You mean to pass - to go down Garland Street?
- A If they lived in the block, and the traffic was against them, and other traffic was going in the opposite direction, and they wanted to go home, they were permitted to drive down when north traffic was shut off.
- Q Well, now, let me make sure of that. Just will you look here a minute, officer. If you don't understand it for any purpose - why, this is a Garland, this is Charlevoix?
- A Yes, sir.
- Q Here is Dr. Sweet's house?

A Yes, sir.

Q I am right about that?

MR. TOMS: That is right.

Q This is Dr. Sweet's house, that is on the northwest corner. Now, you had the blocking a block north of Charlevoix on Garland and the blocks south of it?

A Yes, sir.

Q That left Charlevoix open?

A There was a man that had the block west on Charlevoix, and block east on Charlevoix also, had automatic signal.

Q I don't believe the inspector brought that out. I didn't ask about that. There was a man a block east - this is east, isn't it?

A Yes, sir.

Q A block east. At Bewick, that is the first street east?

A Bewick is the first street west of Garland on Charlevoix.

Q And he stopped all the machines?

A Yes, he turned traffic there either north or south.

Q And he stopped them on the corner whether they lived in the block?

A No, sir, people came up there, and didn't want to make a turn, they would say that they lived in the block.

Q And the man let them through?

A And the man let them through.

Q Otherwise all traffic was diverted here?

A Yes, sir.

Q Going either north or south for a block?

A Yes, sir.

Q Do you remember who was stationed there?

A I do not.

Q And the same thing happened over here (indicating)?

A Yes, sir.

Q And Charlevoix was blocked at the same time Garland Avenue was?

A Yes, sir.

Q Nobody was allowed in this area unless they told the officers they were living there?

A Providing they were in automobiles.

Q Yes.

A That is all.

Q I mean automobiles?

A Yes, sir.

Q You didn't stop horse traffic?

A No, sir.

Q So you had four traffic officers?

A Yes, sir.

Q Now, after you had been standing there about 15 minutes, you heard these shots, or tep? I don't know exactly, but

~~in that neighborhood?~~

A Yes, sir.

Q And the number of shots went off at once?

A Yes.

Q Or practically at once?

A Yes, sir.

Q I don't suppose, officer, that even with your experience on the police force, you wouldn't pretend to be exact as

Q So the number of seconds between the first and the last?

A No, I couldn't.

Q What is your best judgment on it?

A Oh, I should say possibly, three or four or five seconds, maybe.

Q It almost seemed simultaneous, didn't it?

A Yes.

Q Well, it wouldn't be possible either for you to know how many there were, would it?

A No, sir.

Q Do you think you could make an estimate, or give us any light on it?

A Why, I don't know, possibly 15, 18, maybe 20 or more. I couldn't say exactly. I don't know.

Q By the way, do you know the names of those traffic officers?

A I do not, sir.

Q I suppose we may get this at headquarters?

A Could get them.

Q If we were inquisitive?

A Could get them.

Q And barring the time- barring the shots where you saw the light come up from the guns, assuming it was from the guns-

A Yes, sir.

Q Outside of that, you wouldn't know where the shots came from?

A No, sir.

Q But you do know that some shots came from the front windows?

A Yes, sir.

Q More than one of them?

A Yes, sir.

Q I don't mean more than one shot. I mean more than one window?

A Yes, sir.

Q Two?

A Yes, sir.

7 Q And you know that some shots - shot or shots - not particular which, came from the Charlevoix side of the house?

A Yes, sir.

Q And one place, or more, don't you know?

A The windows, the two windows.

Q Well, wouldn't that be front and back or -

A They are about the middle ways in the house, upstairs.

Q Are the windows close together?

A Yes, sir.

Q Well, you saw enough so that you were quite sure they were shots from each window?

A Yes, sir.

Q Well, I suppose that was all the shots that you saw?

A Yes, I couldn't say -

Q You couldn't see from anywhere else -

A From the front and the side.

Q You couldn't see except the Garland Avenue and the Charlevoix side?

A That is all.

Q Whether there were more or where they came from, you would not positively know, I presume?

A No.

Q Will you look at that and see whether you ever saw that letter before (indicating).

MR. DARROW: I won't refer to it in any way without showing it to you.

A I did not, sir.

MR. DARROW: May I have this marked?

(The letter was marked Defendant's Exhibit 1)

MR. DARROW: I have marked Defendants' Exhibit 1, for identification).

MR. MOLL: You are not offering this?

MR. DARROW: No, no. I am not offering it.

Q Look at these two - two letters that I hand you and just say whether you have seen either one of them. I presume the top one, you wouldn't have seen?

A No, sir, I did not.

Q Did you ever hear about either of them?

No, sir, I did not.

Q These two letters I refer to, mark them - mark Exhibit 2 and 3 for identification, defendants' exhibit.

(The exhibits were marked by the reporter Exhibits 2 and 3).

Q Officer, was there a traffic cop also - excuse me for the word "cop". That is what we call them, - traffic officer also - oh, you fellows are called "cops" - stationed at this corner of Garland and Charlevoix?

A There were for a time, yes, sir.

Q Was that at the time they were placed at the other corners?

A No, there was one there before.

Q Well, did he stay, or was he pulled off?

A He was taken away after the other traffic was diverted.

Q I see. Now, this man - this officer who was placed at the corner of Garland and Charlevoix - do you know when he was put there?

A He was put there about 8 o'clock.

Q That is, on the evening of the 9th?

A Yes, sir, as near as I can -

Q Haven't you got that mixed a little bit?

A The evening of the 9th? No, I don't think so.

Q The traffic officers on these streets, each side, were placed there about eight, weren't they, or before that?

A A little later, a little bit later, and I sent for other men to relieve them because those were men that we gathered up here and there, just extra.

Q Now, it seems to be generally thought all around this shooting happened about 8:25. Is that about your notion of it?

A Yes, sir, 8:25, yes, sir.

MR. DABROW: You don't mind, for just the purpose of a few questions, my standing here?

MR. MOLL: No, no.

Q Now, how long do you say these officers had been placed, north and south, and east and west? On Charlevoix and Garland before the shooting took place?

A I should say possibly ten or fifteen minutes.

Q And you think the traffic officer at the corner of Garland and Charlevoix was there 25 minutes before?

A Yes, I should say so.

Q Well, then, he wasn't there- the traffic officer at the corner of Garland and Charlevoix was not there more than ten or fifteen minutes altogether?

A I think so.

Q You think that is right?

A Maybe twenty minutes, half an hour, such matter as that.

Q You are sure he was taken off?

A I know he was taken off because he was standing over on the opposite side of the street. I saw him standing over there when the shooting occurred.

Q Now, whereabouts do you mean, officer?

A On the northeast corner on Charlevoix and Garland.

Q That is right. That is north, over here.

A Yes.

Q In the vicinity of the store?

A Standing on the corner here, in the vicinity of store.

Q That is the corner of the store. And he was not giving attention to the traffic there at that time?

A There weren't any traffic there other than pedestrians, nothing but pedestrians.

Q Yes. You are right about that, other than pedestrians, and such automobiles as people were driving within the block -^A That is all.

Q ~~He was~~ standing over here on the side walk?

A Yes, sir.

Q I am pointing now to the northeast corner (indicating).

Was he called first - I am referring to the corner of

Chrlevoix and Garland. Was he called first before any orders were given to the other traffic men?

A Yes.

Q And soon after he was called, was the order given for the other traffic men?

A Oh, possibly twenty minutes, fifteen minutes.

Q Now, aren't you getting your time a little short there?

A No, it could be - I didn't look at my watch.

Q I know. I am not trying to get you wrong. I am trying to straighten it out, because it was - assuming the shooting was at 25 minutes past eight, it was only 35 minutes prior to that that the traffic officer was placed here at Garland and Charlevoix, until the shooting, wasn't it?

A I should say that the officer was placed there about eight o'clock, possibly twenty or twenty five minutes - maybe half an hour before the shooting occurred.

Q Yes. Well - and you think he stayed about how long before the others came?

A Maybe ten or fifteen minutes he was there - 15, 20 minutes, possibly, before the other men were - got down to their station.

Q Did you give the order to bring the other men?

A I did.

Q How did you do it?

A I talked to the inspector to -

Q Telephone?

A No, sir, and he agreed with me, and an officer went to the station in an automobile.

Q How far was the station?

A Probably ten blocks.

Q And he brought the men back with him or -

A He did.

Q That was done quickly?

A Yes, as far as I know he brought them back. I never saw them.

Q You did know there were - officers were stationed there?

A Yes, sir.

Q (Indicating). I mean now, at the four corners a block away from Garland and Cherlevoix?

A Yes, sir.

Q And that order was given perhaps ten or fifteen minutes after the traffic officer had been placed at the corner of Garland and Cherlevoix?

A Yes, sir.

Q Now, after the shooting, I believe you say you started to telephone?

A I did.

Q To call up - call for more officers to come to the scene?

A Yes, sir.

Q In the two evenings that you had been there, up to that time, you didn't talk to any of the citizens or people on the street or to doctor - anybody in the doctor's house?

A No, sir.

Q And you made no effort to?

A No, sir.

Q That is all.

MR. HAYES: Just a minute.

Q Do you know what officer - who was then nearest to Dr. Sweet's house at the time of the shooting? I don't mean his name, but where was he? Were you people the nearest as far as you know?

A No, sir. There was an officer standing on the sidewalk.

Q Whereabouts?

A In front of Dr. Sweet's house. I could see him from where I was standing on the opposite side of the street.

He was standing -

Q In here somewhere (indicating)?

A There was one there - there was one at the other corner.

Q At this corner?

A Yes, sir, and there was one -

Q Just a minute. Do you know his name?

A No, I do not, sir.

Q Where was the other?

THE COURT: Get it on the record, Mr. Darrow.

Q On the record, I have pointed to the northwest corner of Garland and Charlevoix. That is what you mean (indicating).

That is right, isn't it?

A Yes.

Q Where else?

A There was one about 40 feet north of Charlevoix on Garland, standing on the sidewalk.

Q That would be pretty near in front of - it would be in front of Dr. Sweet's house?

A Yes.

Q Any others?

A There were officers directly on the other side of the street.

Q On Garland?

A On Garland.

Q East side of Garland?

A Yes, sir.

Q Do you know the names of any of them?

A No, I do not, sir.

Q That is all.

REDIRECT EXAMINATION

BY MR. MOLL:

Q Well, Lieutenant, was your order diverting traffic prompted by any ~~disorder~~ that was caused by the occupants of any automobile that evening?

A No, sir.

Q Now, will you state whether or not Charlevoix Avenue is a through street?

A It is.

Q I believe the diagram is correct when it shows it contains a double car line?

A Yes, it is.

Q Will you state whether or not ordinarily traffic is heavy on Charlevoix?

A It is very heavy, exceptionally so.

Q And you say then you saw no disorder caused by the occupants or occupant of any automobile on the evening of the shooting?

MR. DARROW: Just a minute. I object. He has been

over it.

MR. MOLL: Well, probably that is repetition. He has already answered that question. That is all.

MR. DARROW: That is all.

RECROSS EXAMINATION

BY MR. DARROW:

Q Just one question. In your experience, did you ever have a traffic - did you ever block off those streets before?

A Not at that particular intersection, no, sir.

Q Do you know of anything that was going on up there excepting this to call for heavy traffic, any fair, or - -

A There was not.

Q Any jubilee or anything of that sort?

A No.

Q That is all.

MR. MOLL: That is all.

(Witness excused).

RAY DOVE, called as a witness, and having been first duly sworn, testified in behalf of the People, as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Your name is Ray Dove?

A Yes, sir.

THE COURT: What is your name?

A D-o-v-e.

Q Do you live at -

Q Did you live at 2916 Garland Avenue on the 9th of September?

A 2914.

Q 2914?

A Yes, sir.

Q That is the two family flat, is it?

A Yes, it is.

Q With two numbers, 2914 and 2916?

A 2912 and 2914.

MR. DARROW: Is that the house where the fellow was shot?

MR. TOMS: 2912 and 12.

Q Were you home on that night?

A I was.

Q What time did you get home?

A Well, it was - it must have been 6:30, a little later.

Q What kind of a night was it, Mr. Dove?

A Well, it was warm- warm night - summer like.

Q Fair?

A Fair.

Q Now, after dinner in the evening, what did you do?

A Well, we went out on the front porch.

Q ^{Who} Do you mean when you say "we"?

A My wife, two roomers, baby carriage.

Q Went out on the front porch?

A Yes, sir.

Q What did you do out there?

A Was sitting down on the porch, chairs, on the banister.

Q Is there just one steps to that house?

A Two.

Q Running up each side?

A Yes, sir.

Q On which steps were you sitting on?

A Well, I was on the south side of the porch, towards the south end of the porch.

Q That would be the side nearest to Charlevoix?

A It would.

Q What are the names of your two roomers?

A Arthur and Strauser.

Q Arthur and Strauser?

A Yes, sir.

Q Your wife's name is Kathleen?

A Yes, sir.

Q Where were they seated on the porch?

A Well, I think the two boys -- the two roomers were more to the north of the porch, also my wife.

Q The porch extends across the whole front of the house?

A Yes, sir.

Q With separate stairways leading down from the porch at each end?

A Yes, sir.

Q Now, just tell us where you were sitting, please?

A Well, I was just directly - - almost directly in front of the south steps leading down from the porch.

Q Were you sitting down?

A No, I was standing.

Q Were you standing on the walk at the foot of these steps or up on the porch?

A No, on the porch.

Q On the porch?

A On the porch.

MR. DARROW: Is that any special time?

Q Well, maybe I haven't laid that. What time did you go outdoors?

A It must have been 7:30, around 7:30.

Q And did you go anywhere away from the house?

A No; I was there all the time.

Q What if anything did you see or hear about twenty or twenty-five minutes after eight?

A Well, there was shooting from across the street, 2905.

Q Could you see any flashes of guns shot?

A I did.

Q Gun fire?

A I did, yes, sir.

Q Where did that come from?

MR. HAYES: Your Honor, I understand that the testimony of this witness is likewise being taken subject to my motion to strike out, not connected?

THE COURT: Yes.

Q All right. Where did the shots come from?

A From the upstairs, front windows, also the side windows on the north side of the house.

Q What house do you refer to now?

A 2905 Garland.

Q That is the northwest corner of Garland and Charlevoix?

A Yes, sir.

MR. DARROW: Dr. Sweet's house?

Q Do you know who lived there?

A Dr. Sweet.

Q You saw flashes of gunfire from the upstairs front windows facing on Garland Avenue?

A Yes, sir.

Q And from the second floor windows on the north side?

A Yes, sir.

Q That would be between the -- Dr. Sweet's house and the next house --

A To the north.

Q North. How many shots did you hear, to the best of your judgment?

A Well, I would judge anywhere around twenty or twenty-five shots.

Q Was anyone struck that you saw?

A Mr. Briener, I saw.

Q How far away was Mr. Briener from you?

A He was around fifteen feet, maybe twenty.

Q Had you known Mr. Briener before that?

A I had.

Q What was doing at the time he was struck?

A I think he was standing there talking - -

MR. DARROW: No, just a minute.

Q What did you see him doing?

A He was standing there, facing towards the house, and looked to me as though he was talking to - -

MR. DARROW: No. I object to that.

THE COURT: The objection is sustained. Tell just what you saw.

Q He was standing there with his back - -

A He was standing there with his back to the street.

Q Facing what house?

A Facing my house, and there was a fellow close by to him there, in front of him.

Q Do you know who that man was?

A Well, that was Houghberg.

Q Did you see anyone strike opposite Mr. Briener?

A I did not.

Q What happened after you saw Briener struck?

A Well, he fell - - after that time I was getting the rest into the house. I was the last one in the house. I was getting my wife - - the other two roomers were already in. And I was getting my wife and baby in the house. They were in ahead of me. That is how I come to see Mr. Briener,

because I was looking towards the south facing - -

MR. DARROW: Just a minute. I object to that. It is not responsive, I think. What is the question?

(The question was repeated by the reporter.)

MR. DARROW: I guess I am wrong. Well, go on. You might read him a little of what he said.

(The last part of the answer was repeated by the reporter.)

A Yes, sir. I was looking toward the south, facing the north, then I could see Mr. Briener. I could see the front of my yard, and he fell towards my house, towards the north step.

Q That is not the step that you were sitting on?

A That is not the step I was sitting on.

Q After you got your wife and baby in the house, what did you do?

A I stayed in the house then.

Q How long?

A Oh, I imagine ten minutes.

Q Then what did you do?

A Went back out on the porch.

Q Did you see Briener then?

A No, Briener was gone.

Q Did you Houghberg?

A No.

Q Do you know of anyone else being shot there from your own knowledge?

A No, sir, I do not.

Q You saw Briener fall after he was shot? You didn't assist in picking him up?

A No, sir.

Q When did you next see him?

A Well, Briener he was -- after they had brought him back home from the hospital -- or the --

Q You next saw him at his home?

A At his home, yes, sir.

Q Now, in what part of the lot was he was standing when he was shot?

A Well, close to the north line of the building where I live, out in front of the steps, north steps.

Q I will show you Exhibit 5, and ask you if you recognize what it is a picture of (indicating)?

A Yes, sir. That is the picture of the north steps leading down from my porch.

MR. DARROW: Is that the one that was offered in evidence?

MR. TOMS: It has been admitted.

MR. DARROW: It has been admitted.

MR. TOMS: It has been admitted.

Q Will you look at this diagram, Exhibit 1, Mr. Dove, the square marked house, 28913 and 14. Does that represent the location of the house where you live?

A Yes, it does. You get the directions here. That is Garland Avenue, north and south, and this is Charlevoix. This is Dr. Sweet's house. ^Q Is this the house where you live?

A It is.

Q Now, you say there are two steps leading down from the front porch which runs across the house?

A Yes.

Q The front of the house. Now, the sidewalk is not indicated here. It comes somewhere between the curb and the lot line here. Will you come and point on this diagram, as nearly as you can, where Briener was standing when he was shot?

A Just about right in here (indicating). Maybe it is a little to the north of that.

Q North?

A Right in between there.

Q Would you say between those two crosses?

A Right in there, as near as I can say.

Q All right. Did he have his coat on, do you remember?

A Yes, I believe he did.

Q How long had he been standing there that you know of?

A Well, I saw him there two or three different times during the afternoon -- that evening.

Q I mean after you came out in the evening, after your dinner, how long was Briener standing there?

A Well, not long -- not over four or five minutes at the most.

Q Four or five minutes?

A Yes.

Q And you say at the time he was shot his back was --

MR. DARROW: Now -- I will withdraw any objection.

Q He was facing the steps of the house?

A He was.

Q Was anyone else standing up near him?

A Yes, there was Mr. Houghberg was facing him there. He was sitting on the steps.

Q How many other people were there on the north steps of the house?

A On the north steps? There was nobody else, just Houghberg.

Q Sitting down, and Briener standing up?

A Yes.

Q Are there two trees in front of that house?

A There is.

Q How big are they?

A Small trees, about 3, 4 inches in diameter, I guess.

Q How high?

A And about eight feet high, nine at that time; they were in foliage.

Q Exhibit 7 shows those trees in front of the house, does it?

A Yes, sir.

Q I don't remember whether I asked you this, or not, can you estimate the number of shots that you heard fired?

A Yes, there was as-nearby as I can tell -- I couldn't tell, I couldn't quite tell for that matter just how many, but there was twenty, twenty-five shots, I should think.

Q How were they, fired in succession or simultaneously?

A Well, they were -- there was a little intermission. Just a very small -- a little intermission between shots, that is, volleys.

Q Between volleys?

A Yes.

Q How many volleys were there?

A There were two volleys.

Q How much time would you say was covered by the whole shooting?

A Well, just a few seconds.

Q A few seconds. So, if there was any pause between volleys, it was only momentary?

A Yes, just momentary, that was all.

Q At the time of the shots, in what direction were you facing?

A I was facing the west.

Q That is, you were facing in the direction of Dr. Sweet's house?

A I was.

Q Do you know where any of the bullets that were fired struck?

A Yes, sir.

Q Where?

MR. HAYES: We object to that, your Honor. How is that material? What difference does it make?

MR. TOMS: I assume that counsel is asking your Honor to explain how it is material?

MR. HAYES: I object on the ground it is incompetent, irrelevant and immaterial. I asked that question as a matter of argument because I think the answer was so obvious that it couldn't make any difference.

MR. TOMS: It is material in a number of ways; first, it is a part of the res geatae; next, it shows in what direction the bullets came from; next, it might

serve to identify the bullets. There are three reasons for which the answer is admissable.

MR. HAYES: If the prosecutor will say that ~~in~~ he intends to identify these bullets, and in some way use them, I can understand it, but I do not think it possible he will say that. I do not believe it is used for that purpose.

MR. TOMS: I am not saying whether it is competent or is not competent.

MR. HAYES: And if the argument is made in good faith he ought to be willing to state what the purpose of this testimony is. He has stated the purpose, and we object on the ground it is incompetent, irrelevant, and immaterial. My only inquiry was whether his statement was made in good faith, and I think that is a matter that is up to the court. If it wasn't, and that is his argument, and that is the only ground on which it is admissable, it ought not to be admitted.

THE COURT: The objection is overruled.

MR. HAYES: Exception.

MR. DARROW: May I make an objection to the form? Will you read that question?

(The question was repeated by the reporter.)

MR. DARROW: Now, your Honor, it is competent according to the ruling of the court, and I am not objecting myself, ~~and~~ I think to show there were certain bullets, in certain parts of the house; after the shooting took place, maybe the next day, they never examined it. Perhaps competent to show they were not there before. It is not

competent to ask him a question where did any of the bullets that were fired - -

MR. TOMS: Perhaps it is objectionable in that form as to this time.

MR. DARROW: Probably amounts to about the same thing.

Q Did you hear any bullet strike at the time of the firing?

A No, I didn't hear them.

Q Did you hear the whistle of bullets?

A No, I didn't hear any of that.

Q Did you examine the house later, and if so, when, for bullet marks?

A Yes,

Q When?

A The next morning.

Q The next morning?

A Yes, sir.

Q Did you find any?

A Yes, sir.

Q I will show you Exhibit 5, you have already seen it. Does that photograph show any marks which you found on examination the next morning?

A Yes, sir.

Q Where? Point them out?

A Three of them (indicating). One, two, three.

MR. TOMS: Mr. Darrow, will you see that I mark this as he indicates.

MR. DARROW: I will take your word for it, Mr.

Toms.

Q That one (indicating)?

A One; this is the second one; this is the third one.

(The prosecutor then put marks on the photographs.)

Q What kind of a door is there leading from the front ~~at~~ stairs to your apartment? You live on the second floor, do you not?

A I live on the first floor.

Q On the first floor?

A Yes, sir.

Q Well, what kind of a door is there leading from the porch into the house?

A Into my house on the first floor?

Q No, ^{from} ~~into~~ the porch that goes to the second floor?

A Glass door, the upper half, the panel is glass.

Q Did you notice that door after the shooting?

A Yes, sir.

Q When?

A At night.

Q How soon after the shooting?

A Well, almost directly after I went back out.

Q What was the condition of it?

A It had a bullet entered through the glass and lodged in the porch, in the steps going upstairs.

Q That is, the inside steps - -

A Inside steps - -

Q The inside steps leading up to the second floor?

A Yes, sir.

Q That door that you mentioned is on the south side of the porch, isn't it?

A Yes, sir.

Q Nearest to Charlevoix Avenue?

A Yes.

Q That is not the entrance to your flat?

A It is not, no.

Q That is the entrance to the upstairs?

A Upstairs flat.

Q The bullet holes that you have identified in the porch were on the north steps?

A They are.

Q The bullet holes through the door that you have mentioned is on the south side of the house?

A They are.

Q South side of the porch, at any rate. I show you two photographs marked Exhibit 16 and 18, not yet admitted in evidence.

MR. DARROW: Not yet admitted.

Q And ask you if you recognize what they show?

MR. DARROW: That would be answered with yes or no.

Q Yes. Answer yes or no if you recognize what those are pictures of?

A They are, yes, sir, I recognize that one. This one also (indicating).

Q Are they photographs of part of the building at 2912 and 14 Garland Avenue?

A They are.

MR. TOMS: I offer them in evidence. (Showing photographs to Mr. Darrow.)

MR. DARROW: Now, why not take this all at once?

MR. TOMS: All right.

MR. DARROW: Don't you think it would be better?

MR. TOMS: Let us have it out on these two pictures first and then we will take up the rest, if you like.

MR. DARROW: There are so many of them. We might as well save time.

MR. TOMS: ~~It~~ It will save time, all right.

THE COURT: Do you want the jury excused?

MR. TOMS: I think so.

THE COURT: All right. You may be excused, gentlemen.

(The jury was then excused.)

MR. HAYES: If your Honor please, shall we proceed?

(Interruption.)

(The following proceedings were had out of the presence and hearing of the jury.)

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THE COURT: Give me the numbers of the exhibits and the description of those that are in question.

MR. HAYES: The two I think that are in question represent, one of them, a house across the way.

THE COURT: On Garland Avenue?

MR. HAYES: On Garland Avenue, - apparently the house about which this man is testifying.

THE COURT: What house is that, Mr. Toms?

MR. TOMS: 2912 and 14.

THE COURT: What house was that, next door to Mr. Dove's place?

MR. TOMS: It is Mr. Dove's place.

THE COURT: It is the same house that exhibit 5 was introduced in reference to?

MR. TOMS: Yes, exactly.

THE COURT: Exhibit 5, as I understand it, shows that there are three bullet holes in the steps. That has been admitted.

MR. TOMS: Yes, but Exhibit 5 does not show this other part of the same premises.

THE COURT: And that is what you want?

MR. TOMS: Yes.

MR. DARROW: Is it the purpose to show bullet holes?

THE COURT: I will hear the argument now.

MR. HAYES: First, we will concede the bullet holes.

THE COURT: First, give me those numbers.

MR. HAYES: Exhibits 16 and 18 for identification. Each of them represent different parts of the house, at 2912 Garland Avenue. We admit the bullet holes, your Honor. And as I stated in this memorandum, there is no question that photographs ordinarily may go in evidence. But, that is in the discretion of the Judge, the trial court. Where we have agreed to enough photographs to explain the situation, the only effect of other photographs would be to distract the jury's attention from the main issues in the case. In other words, they like to look at those photographs, and think where a bullet struck. This particular one that is offered in evidence, when they look at it, they think of a room; they think of a room in a house, and the people are quiet and peaceful around there, and it makes them think of something reckless. It emphasizes that point in the case. The only purpose can be to emphasize something, to get away from the main issue. That is not the issue in the case.

So, we object to the introduction of any more photographs, in view of the fact that these already admitted in evidence are sufficient to enable the jury to picture the situation, and clarify the geography and location of the house and the situation in general.

MR. TOMS: In the absence of some rule of law, I do not see why we should be restricted either in the character or completeness of our proff by what counsel thinks would be the effect on the minds of the jury. He has stated just what the jury is going to do when they see these photographs, and how they are going to regard them,

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and what they are going to think of them. I do not know where he gets that information. Unless there is some rule of law making these exhibits inadmissible, I reserve the right to use my own judgment as to whether they may be offered, at least, and I ask the discretion of the court as to whether or not they should be admitted. They simply show more clearly, and more in detail, what happened up at this house. And, if it is the fear of the defendant that they will show that too clearly, why, that is no reason for excluding them as one of the people's exhibits.

Now, this is the first intimation I have had that the defendants admit that bullets struck that house. I do not know as they can bind their clients, anyway, by that kind of an admission in a criminal case.

MR. DARROW: We couldn't.

MR. TOMS: And therefore, I choose to prove that bullets struck there, if the court will permit me; and to show where they struck, I offer the photographs.

MR. DARROW: Will they show who fired them?

MR. TOMS: We will get to that point too.

MR. HAYES: May I have it noted of record that the prosecutor says that he will get to that point, showing who fired them.

The rule of law is that the matter is in the discretion of the trial judge. Obviously, there must be some discretion. Obviously, ten thousand photographs would not be introduced on every feature of the situation there. And, if the prosecutor wants it out of a law book -

THE COURT: That is the point I am concerned about here, whether or not I should permit, by the admission of these photographs, an improper emphasis on the subject.

MR. TOMS: Certainly, the place where the bullets struck should be emphasized. I am not offering photographs of anything that has not some probative value. I am not offering photographs of the interior of the house, for example, or of a place where no bullets struck, or that was not exposed to the fire from across the street. These are very carefully restricted to just the place where the bullets struck, which to my mind is certainly material.

THE COURT: How many exhibits of that kind have you, Mr. Toms?

MR. TOMS: Why, I think I can eliminate some of them. I have already done so.

MR. HAYES: On that proposition of where the bullets struck, the witness says a bullet struck in the door. How is that helped by the photographs? The only effect of the photograph is to pay undue emphasis upon it. If we cannot admit it, the witness can testify that he saw a bullet hole in the door, and saw a bullet hole some where else. It certainly does not make any difference as to what part of the door it was in. All of the details surrounding it do not make any difference here. That is not the issue we are trying. If the prosecutor thinks it is proper to have the witness testify that the bullet struck this door, he can testify to that. Of course, the photographs will emphasize it. When they emphasize some-

thing that is off the issue, they distract the attention of the jury to something off the issue, and give the jury an unfair advantage of the case as it was.

MR. TOMS: The photographs only show facts. If facts distract the attention of the jury from the issue, where are we going to go and what is the conclusion from that? It seems to me that facts narrow down the issue.

MR. HAYES: Why certainly, your Honor. If we have photographs of everything, if we had a photograph of the people there that night, and the traffic being stopped, and all of the rest of it, there would be no objection. But, these photographs emphasize certain things, and there is an absence of photographs about important facts. We ask that emphasis be not laid upon things that are wholly immaterial, and that you exercise your discretion to see that enough photographs should go in to enable the jury to comprehend the complete situation, but not enough to emphasize particular features of the case.

MR. TOMS: In other words, you want to -

MR. HAYES: There will be no evidence against anything this man testified to. If there were, there might be a better reason for putting in the photographs.

MR. TOMS: I do not want to rely upon any admissions of counsel on material points.

MR. DARROW: Counsel knows perfectly well that we will follow what we say. It is true, we could not admit anything to bind our clients. But we can say that we will or will not offer certain evidence. If we do not keep

our word, - which he knows we surely will - but, if we do not, then he could offer his photographs afterwards. This matter as to the bullet holes is not going to be disputed in any way. You can take four or five pictures of the house, or take a picture of any part of it, or of all parts of it. Of course, it is going to be in the discretion of the court as to how far you will go.

MR. TOMS: It would be within the discretion of the court to permit the jury to go and see these things themselves, first hand.

MR. DARROW: Why not let us think about that a little?

MR. TOMS: I say, it would be. Now, by the same token, it ought to be within the discretion of the court to permit photographs of the same thing, and especially if your Honor does not intend to let the jury see the premises themselves.

THE COURT: Well, as I view it, gentlemen, we now have evidence on the record at this time of the witness that establishes bullet holes as a fact. The prosecution is not deprived of that. It is established, and probably will be further established by testimony of witnesses. In addition to the testimony of witnesses, you also have admitted, or there has been received into evidence an exhibit which shows three bullet holes. The admission of further exhibits in this direction, under the rule, is discretionary with the court. I do not think that can be questioned. I do not want the state improperly limited in the presentation of its case, and I will not permit

that to be done. But this is a discretionary matter. And in a case of this kind, I think that I ought to exercise my discretion in a way that will prevent prejudice coming to the eleven accused, because of an undue emphasis on this special subject.

So, for the time being, I will sustain the objection, and exclude the further exhibits showing bullet-holes, various bullet-holes. Later on I may hear from the prosecution again on this subject.

We will take a recess for 15 minutes.

(A 15 minute recess was taken at this point)

MR. TOMS: If the Court please, I do not want to be insistent. I have eliminated a number of the exhibits, and narrowed the offer down to five of these photographs. Exhibits 16 and 18 were offered in evidence. I will withdraw the offer of Exhibit 16. Exhibit 18 does not show in any other exhibit admitted; this part of the premises is not shown in any of the five exhibits admitted, that is the doorway and inside, concerning which this witness has testified. Nor, do any of the five exhibits that I now offer in evidence -

THE COURT: What are the numbers?

MR. TOMS: No. 21, No. 12, No. 23, and No. 17.

THE COURT: Will you examine these exhibits, Mr. Hayes?

(Counsel examines exhibits)

MR. TOMS: There are ten exhibits which have been admitted as authentic, which I don't offer, all photographs.

(Counsel confer off the record).

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MR. HAYES: If your Honor please, two of these, Exhibits 17 and 21, are enlargements I believe from other photographs. I do not particularly object to them, because they do not add anything. If the prosecutor feels that there are parts of the other photographs that are not clear, I do not object to him clarifying them by others, those that may be admitted without objection. As to those other photographs, I do object, because I do not see the purpose of them. For instance, this exhibit No. 23 strengthens my argument, particularly, and shows the vice of this sort of evidence. There is a tree standing in the yard. According to our contention, there were mobs of people around there, at the time of the firing. This is a very peaceful scene. If that goes in, it means a consideration by the jury as to what the prosecution's contention is and as to what our contention is. It adds nothing to the case. Besides that, you take that particular part of it, the tree, and you take a close-up view of it, and you emphasize the bullet hole - whereas, anybody going there would have a rather difficult time finding it; it would have to be pointed out to them. So that, I think that is objectionable. And I do not see any reason why these others should go in. They add nothing to the case, but emphasize particular things.

MR. TOMS: They do not add much to the defense, that is true.

MR. HAYES: One of them is a photograph of an open door. No evidence that the door was in that position the night before. It may show the course of a bullet that did not

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exist. Those things merely bring extraneous issues into the case, and your Honor, if I was doubtful whether to admit them before, I am convinced that they ought not to be admitted, because of the insistence of the district attorney that they are very important, because, certainly this is not the issue in the case. There is no dispute about that.

MR. TOMS: Do you mean to say, Mr. Hayes, that the firing of bullets is not an issue in this case?

MR. HAYES: No, the firing of bullets will be testified to by your witnesses.

MR. DARROW: And not disputed by us.

MR. HAYES: Not disputed by us.

MR. TOMS: It certainly is an issue in this case, as to where they landed.

MR. DARROW: Well, that has been testified to, and won't be disputed.

MR. TOMS: Now, I have narrowed my offer down just as much as I can, and have any sense of duty.

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THE COURT: Of course, the admission of these exhibits may invite unnecessary peril in this case. It may open the door to argument that would be very dangerous too, about women and children and other bystanders. The recklessness of the whole situation may be what would attract the mind of the jury, rather than the issue that is involved in this case, the murder of the deceased. That also has been on my mind in sustaining the objection to the exhibits. I think it is fraught with peril. That has been in my mind. As I said to you before, I do not

want to limit the People in showing the situation at the time this occurred. They ought not to be limited, You have already shown it by the testimony. You can show it further by testimony, and subsequently in this proceeding, I may admit these exhibits, but I will sustain the objection at this time. If you have anything further, any further thought on the subject, I will be glad to hear you this afternoon or tomorrow.

MR. TOMS: Then, in the course of further time, I may, without offense to the court, re-offer these exhibits?

THE COURT: Yes, you may re-offer the exhibits, and I think it is proper for you to prove this situation without photographs.

All right, bring the jury in.

(The following proceedings were had in the presence and hearing of the jury).

Q (By Mr. Toms): Mr. Dove, at the time of the shooting, tell us just who were on the front porch of your house?

MR. DARROW: Excuse me. May I have that question read?

(The question was read by the Reporter)

A There was Mrs. Henley.

Q Mrs. Who?

A Henley.

Q Does she live there?

A The lady who lived upstairs; and the two roomers at my place, Bill Athur and George Strausser and my wife and myself and baby.

Q Where was Mrs. Henley?

A She was standing by her door leading upstairs, a glass door leading upstairs from the lower landing.

Q Was she standing outside or inside?

A Just outside.

Q Is that the door with the bullet hole in it?

A It is.

Q Then there was Mr. Houghberg, too, wasn't there?

A Mr. Houghberg; Mr. Houghberg was on the steps, on the north end of the steps; he was not on the porch.

Q In my question, I meant to include both the steps and porch in front of your house?

A Yes, he was on the steps.

Q Then there was Mr. Briener who was standing on the grass?

A Yes.

Q In front of your house?

A Yes.

Q Were there any other people out on the grass in front of the house?

A Well, there was a few, yes.

Q At the time of the shooting?

A Yes.

Q Do you know who they were?

A Well, there was a Mrs. Inquess there.

Q Where does she live?

A Next door.

Q Next door to the north?

A Next door to the north, yes, sir; and Mr. Briener and Mr.

Houghberg. That is about all I can remember seeing there.

Q You remember seeing only three people in front of your house?

A Right on my lawn, yes, sir.

Q And on the steps or porch of your house, there was yourself, Mrs. Dove, the two roomers, Mrs. Henley, and your baby?

A Yes, sir.

Q That is seven?

A Yes, sir.

Q Did you examine the tree that is in front of your house?

A Yes, sir.

Q When?

A The next day.

Q What did you find?

A I found a bullet hole, and the bullet was in there.

Q A bullet hole, and a bullet?

A Yes, sir.

Q Where did you find the bullet?

A It was embedded in the tree.

Q Did you take it out?

A I did not.

Q What did you do?

A I left the bullet in the tree.

Q And called it to the attention of the police?

A Yes, sir.

Q They dug it out?

A Yes, sir.

Q What officer did you point it out to?

A Mr. Johnson.

- Q Lieutenant Johnson?
- A Lieutenant Johnson, Yes, sir.
- Q Did you examine the cornice of the house above the roof?
- A Yes, sir.
- Q Did you find anything there?
- A There was a bullet went through the eave-trough, and landed in the sill.
- Q What do you mean by the sill?
- A I don't know, it is a 12 by 6, something like that, that runs across in front, you know, that supports the roof. You know the roof is built over it.
- Q It supports the roof of the house, not the porch?
- A The porch.
- Q It supports the roof of the porch?
- A Yes, sir.
- Q I will show you this photograph marked Exhibit 12, and ask you what that shows?
- A That shows the eave-trough and the bullet I was just speaking of.
- Q Point out the bullet, or the bullet hole?
- A Right here (indicating on photograph).

MR. TOMS: I offer Exhibit 12 in evidence, on the witness' testimony.

MR. HAYES: Whose house is this?

MR. TOMS: His house.

MR. HAYES: That is one of these, if your Honor please, that you just passed on, and we object.

THE COURT: Sustained.

MR. TOMS: To be perfectly clear, I want it to appear on the record, that up to this time there has been no testimony as to this exhibit which I now offer. Your Honor's ruling stays the same?

THE COURT: Yes. Now, Mr. Toms, will you give me the numbers of those three exhibits, - that is, the one that you just handed to me, and the other two?

MR. TOMS: The other two, which were admitted by consent?

THE COURT: No, the other two which were not admitted.

MR. NELSON: 12, 18 and 23.

THE COURT: 12, 18 and 23?

MR. TOMS: No, not 12; 17 and 21 were admitted.

MR. HAYES: Yes.

MR. TOMS: By consent; and 12, 18 and 23 were excluded - that is right.

MR. NELSON: Yes.

Q How many people live in your house, Mr. Dove, that is, in your flat?

A Up and down?

Q Well, I mean in your flat, in the lower flat?

A In the lower flat?

Q Yes.

A Well, there is five of us.

Q How many upstairs?

A Two.

Q Mr. and Mrs. Henley?

A Yes.

Q Have they any children?

A They have not.

Q Where does Mr. Houghberg live?

A He lives upstairs next door, next door north, upstairs.

Q So that the only people who did not reside in that house, and who were present at the time of the shooting, were Mr. Briener, Mr. Houghberg - and the name of the lady next door?

A Mrs. Inquess.

Q Mrs. Inquess?

A Inquess.

Q Is that true?

A That is true, yes, sir.

Q What had been the condition as to peace and quiet on the street there, after you came out on the porch?

MR. DARROW: Wait a minute.

A Quiet enough.

MR. DARROW: Wait a minute. I object to it as a conclusion, your Honor.

THE COURT: Objection sustained.

Q (By Mr. Toms): Did you at any time observe any crowd congregating?

A I did not.

Q Did you hear any disturbance?

MR. HAYES: I object to that.

A I did not.

MR. HAYES: Objected to on the same ground.

I think the witness ought to be asked what he saw.

THE COURT: I think so too, but I do not think that it is particularly harmful. Possibly you could change it and get just what you want?

MR. TOMS: Well, that was my first question, what were the conditions? What did you see?

A Well, there were cars passing, traffic, naturally. There were people passing. Oh, there were a few more than might have been expected but still they were all walking by. I never noticed any congestion, any traffic or people. That is about all I saw there, excepting of course the house across the street, Dr. Sweet's house, it was dark, the shades were all pulled. The officers were keeping what people were on the streets moving.

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Q Did you notice where the police officers were just prior to the shooting?

A Well, no, I did not. I couldn't say just as to that.

Q Well, where at any time after you came out on the porch did you see the police officers?

A Well, there were police officers all around the house. There were police officers on the side of Garland. There was also a police officer in front of the house, on the other side of Garland; and there were police up and down Charlevoix, on the corner.

Q Had you seen any officers there the night before?

A Yes, sir.

Q Doing the same thing?

A Yes, sir.

Q Had there been any disturbance or breach of the peace, any

noise or anything of that kind on Tuesday night, the night before?

MR. HAYES: Objected to, your Honor.

MR. DARROW: We object to that.

MR. TOMS: On what ground?

MR. HAYES: On the ground that it calls for a conclusion. You got a different statement from the witness before, when he was asked what he saw. There was the same question asked as now, what he saw, before.

THE COURT: Objection sustained.

MR. HAYES: Exception.

Q Tell us what conditions you observed on the night before?

A Well, there were some few people walking up and down. The officers were keeping them moving, the same as the night of the shooting.

Q Was there any difference between the situation on Wednesday night than on Tuesday night?

A Well, not a great deal, no. If anything, there was more people on the night before the shooting, than there was the night of the shooting.

Q More people on Tuesday than on Wednesday?

A Yes, sir.

Q Did you hear any shooting or calling?

A I did not.

Q Loud calling?

A I did not.

Q Did you see any stones or missiles thrown at Dr. Sweet's house?

A No, sir, I didn't notice that.

Q Were you armed that night?

A I was not.

Q Did you see anybody else that was?

A I did not.

Q Did you see anyone carrying arms or missiles?

A I did not.

Q When you came out on the porch, after you had your dinner, was it dark?

A Well, no, not right at that time it was not.

Q Just getting dusk?

A Just dusk like, yes.

Q At the time of the shooting, was it dark?

A Yes, it was dusk - well, it was dark at that time.

Q Were the street lights turned on?

A They were.

Q At any time that evening, did you notice anyone on the steps of Dr. Sweet's house?

A Not when I was home, no; not when I got home; it was rather late when I got home from work, I worked overtime.

Q Did you see any one enter or leave Dr. Sweet's house at any time?

A I did not.

Q Or did you see anyone on the porch?

A No, sir, I did not.

Q Or the steps?

A No, sir.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Mr. Dove, what is your business?

A Metal finisher.

Q That was your business at this time that you are talking about, was it?

A Yes, sir.

Q Where do you work?

A How is that?

Q Where do you work?

A Murray Body Corporation.

Q Where?

A Murray Body Corporation.

Q How long have you worked there?

A Three years and better.

Q How far do you live from your work?

A Well, it is almost an hour's ride on the street car.

Q Do you go by street car?

A Yes, sir.

Q You have not an automobile?

A I have not.

Q How long have you lived in Detroit?

A How long in Detroit?

Q Yes.

A I have been in Detroit three years and a half.

Q Well, that is near enough; just about, that is what I am getting at. Where did you come from?

A Indiana.

Q What part?

A Just south of Indianapolis, about 80 miles.

Q What is the name of the town?

A Linton,

Q Were you born there?

A Yes, sir, - well, not born at Linton.

Q Indiana?

A I was born in Indiana.

Q What part were you born in?

A Colleen, that is east about ten miles where my father now lives.

Q Now, this building was two apartments, was it?

A A two family flat.

Q One upstairs and one below?

A Yes, sir.

Q You lived below?

A Yes, sir.

Q And your family consisted of yourself, your wife and baby?

A Yes, sir.

Q Anyone else?

A Two roomers.

Q Two roomers?

A Yes.

Q Five?

A Yes, sir.

Q What did the other one consist of?

A Man and wife.

Q So that there was seven people living in the two apart-

ments?

A Yes, sir.

Q Are you a member of any organizations of any sort?

A How is that?

Q Do you belong to any organizations?

MR. TOMS: Wait a minute now. That is proper, with the jury, but it has no place from the witness.

MR. DARROW: Let it go for the time being.

MR. MOLL: It would not affect the credibility of the witness.

MR. DARROW: Is there any reason why you would not want to answer it?

MR. TOMS: I will ask for a ruling. I object to the question as immaterial and incompetent.

THE COURT: Objection sustained.

Q (By Mr. Darrow): Will you please just look at this. This is your house, (indicating on map).

A Yes, sir.

Q You spoke of a flat adjoining it, with a plat of ground adjoining it. Where is that?

A Between -

Q You can come down and point it out to us. ^A Just what do you mean?

Well, I don't know. You referred to a little plot adjoining it that was vacant, didn't you?

A Oh, yes.

Q That is what I mean. That was the reason I wanted you to point it out.

A The alley was in the rear, from those stairs (indicating on map.).

Q In the rear of these stairs?

A Yes, sir.

Q This is a part of the lot here, isn't it (indicating)?

A Yes, sir.

Q The part immediately south of you?

A Yes, sir.

Q And it is vacant in here (indicating)?

A Yes, sir.

Q Right up to the street?

A Yes, sir.

Q About how wide is that vacant plot?

A Well, it must be -

Q Oh, about, I mean?

A About 12 feet, I imagine.

Q Is that where the three people were standing, that you spoke of?

A No, sir.

Q Were there any people there?

A Well, I couldn't say for sure no, sir. There may have been two or three people on that vacant lot, that vacant space.

Q Two or three?

A Yes, there might possibly have been; I couldn't say as to that for sure.

Q You couldn't say whether there were any there?

A No, sir, I could not?

Q What time do you ordinarily get home from your work?

A Well, ordinarily about 5:30.

Q What time do you ordinarily leave in the morning?

A Six o'clock.

Q What time did you get home on the 8th, not the 9th, that I am asking you about?

A I don't just remember now what time I did get home, but I think I worked an hour overtime. That would throw me around 6:30.

Q The first thing you would do would be to get your dinner, I suppose?

A Yes, sir.

Q That would take a half an hour or an hour?

A Yes, sir.

Q What time did you get home on the 9th?

A On the 9th?

Q Yes.

A 6:30 I believe, around 6:30, maybe a little later.

Q And you got your dinner the first thing?

A Yes, sir.

Q So that it was about half past seven before you -

5 A Close to it, yes, by the time I was washed up.

Q And when you got out, you went on the front porch?

A Yes, sir.

Q I mean when you got your dinner. How long had you known this man who was killed?

A About two years.

Q What was his business?

A He was a foreman, I don't know just where; he was the foreman though, in some steel works.

Q How long had you lived where you were?

A Oh, over a year now in that house.

Q How long had you lived there as far as you know?

A Well, ever since I have been on Garland Avenue and that is almost three years now.

Q You knew him before you came there?

A No, sir.

Q I understood you to say you knew him more than a year; but I might not have understood you correctly.

A Yes. I have lived on Garland Avenue for almost three years, in two different locations, but right close there.

Q That explains it. How near this point did you live on Garland Avenue?

A I lived at 2938. That is just north of where I live now.

Q You lived nearer to him before, than you do now?

A Yes, sir.

Q And you knew him then?

A Yes, sir.

Q Quite intimate, were you?

A Well, not what you would call real intimate, only on speaking terms.

Q Ever been to his house to dinner?

A No.

Q Or he to yours?

A No.

Q Ever visited in his house?

A Yes, I have been to the house.

Q For an evening?

A Yes, sir.

Q He had been to yours?

A Yes, sir.

Q Belonged to the same organizations or clubs?

A Yes, sir.

Q How long had you -

A How is that?

Q How long had you belonged to the same organization or club?

A Well, I have belonged to the Masonic organization for better than four years.

Q Was that the one you referred to?

A Yes, sir.

Q Did he and you belong to another?

A I did not.

Q Had you ever met him anywhere else?

A No, sir.

Q Excepting there?

A That is all.

Q When did you hear that Dr. Sweet had bought that place?

A When did I hear it?

Q Yes.

A Well, it was along in - quite awhile before he moved in that I heard rumors of such a thing.

Q Where did you hear the rumors?

A Well, different neighbors around there.

Q It was a subject of discussion, wasn't it?

A Well, yes, they talked about it some.

Q And had been for a couple of months, hadn't it?

A I don't just know how long.

Q Well, what do you think about it?

A What is that?

Q What do you think about how long it would be?

A Six weeks or two months, something like that.

Q You heard it from all of the neighbors around there, hadn't you?

A What is that?

Q You had heard it from almost all of the neighbors around there, hadn't you?

A Well, two or three or four.

Q And you told others, I suppose?

A Well, yes, I talked about it some.

Q You talked about it in the store?

A In the store.

Q Yes.

A Well -

MR. TOMS: What store do you mean?

MR. DARROW: Adjoining there.

A The store next to me?

Q Yes.

A I never said much to the fellow.

Q Did you ever buy goods in the store?

A My wife does the most of the trading.

Q But you have been in though haven't you?

A Yes, sir.

Q Stores are generally quite a meeting ground, aren't they, as you buy goods?

A No, not for me.

Q You don't know whether you have discussed it there or not?

A No, I couldn't say as to that.

Q You discussed it with your wife, I suppose?

A Oh, yes, the wife mentioned it.

Q Did you trade in that store?

A Yes, I have traded there.

Q Now, you knew when the doctor came in, didn't you?

A I knew when he came in?

Q Yes.

A I was not there when he moved in, no.

Q You heard, didn't you?

A When I came home that night, my wife said that they had moved in.

Q She said that they had moved in?

A Yes.

Q You knew what she meant; you knew what she meant by that?

A Well, yes. She said they had moved in, Dr. Sweet; yes sure I knew.

Q Did you ask her first, whether they had moved in?

A No, sir.

Q She said "Yes, they had moved in, Dr. Sweet?" That is not what she said, is it?

A No, not in just those words; but she said that they had moved in, referring to Dr. Sweet.

MR. DARRON: Read that please.

(The last answer was read by the Reporter)

Q How do you know she referred to Dr. Sweet?

A That was the only vacant house close by there.

Q Anyhow you thought you knew, didn't you?

A How is that?

Q You thought you knew who it was?

A Yes, sir.

Q And thought he was it - that he was the one who had moved in?

A Dr. Sweet.

Q And you knew that he was a colored man?

A How is that?

Q You knew that he was a colored man?

A Surely.

Q And the matter as to when he was going to move had been discussed considerably, hadn't it?

A Well, yes, they had talked about it.

Q You did not want him there, I suppose?

A Well -

Q Don't you know?

A I have got no -

Q What?

A I cannot say that I am prejudiced against anybody.

Q Well, I am not talking about that. You did not want him in the neighborhood, did you, - any colored man?

A I don't own property there myself.

Q Is there any trouble about your answering that question?

A I don't believe in mixing people together that way, colored

and white.

Q Well, now, with that preface, you can answer it, can't you?

You did not want him there?

A No.

Q All right. That had been the topic of discussion for some time, hadn't it?

A Yes, it had.

Q Now, getting back to the 8th, after you had got your dinner, or supper - I don't know which you call it; I used to call it supper until I got in the city, and I am calling it dinner now.

A So do I.

Q We will call it supper if you do not mind?

A All right.

Q After you got your supper, what did you do?

A On the 8th?

Q On the 8th, the day before.

A Well, I was out on the porch, about the same as the next night.

Q As soon as you got your supper, you went out on the porch?

A A little while, yes, sir.

Q How big is that porch?

A Oh, it runs clear across the house.

Q How wide is the house?

A The house is about 30 feet, I guess, close to it.

MR. TOMS: Show him a photograph, with the measurements.

MR. DARROW: With the measurements?

MR. TOMS: Yes.

MR. DARRON: Would that let it in? Otherwise, I will look at it.

Q About 30 feet long, you say?

A Yes.

Q And how wide?

A About 8 feet, I guess.

Q Any benches on it?

A Well, my wife I think had a couple of chairs on there.

Q A couple of chairs are generally out there permanently?

A Well, no; we have no permanent chairs on the porch.

Q And you went out there right after supper on the 8th?

A Yes, sir.

Q How long did you stay?

A Not very long. I went to bed that night pretty early.

Q The next night you did not go to bed?

A The next night I did not go to bed, no.

Q Do you ever go to the movies?

A How is that?

Q Do you ever go to the movies?

A Sometimes.

Q You did not either of these two nights?

A No, sir.

Q Anybody come and sit on the porch with you on the 8th?

A Nobody, but the people upstairs; they came downstairs, I believe.

Q All of them - both of them?

A I am not positive.

- 6 Q How about the boarders, the roomers?
- A Yes, I think they were out there maybe for a little bit.
- Q All of the line-ups on the 8th, out there on the porch?
- A Yes, sir. Possibly they walked off -
- Q What?
- A Maybe they went down the street, I don't know for sure.
- Q If you don't know, all right.
- A All I know, they were all there at one time.
- Q Have either of the roomers automobiles?
- A They have not.
- Q Have the people upstairs any?
- A They have not.
- Q There was an automobile parked there on the 9th, wasn't there?
- A Yes, there was one in front of the house, the 9th.
- Q Did you see it when it came?
- A How is that?
- Q Did you see it when it came?
- A No, sir, I did not. I didn't notice it.
- Q Did you see it when it went away?
- A I did not.
- Q Do you know whose it was?
- A Well -
- Q Of your own personal knowledge?
- A Not of my personal knowledge, I don't know.
- Q You don't know but what it is there yet? You don't know but what it is there now?
- A Oh, no, it is not there now. Oh, well, it might be right now as far as that is concerned.

Q But you don't know when it came or when it went away?

A No. I know only it was parked there.

Q You don't know who came in it?

A No.

Q Now, on the 8th, did you go to bed before anybody else did, or don't you remember anything about that?

A Well, all of us went to bed right around the same time.

Q What time did you go to bed, do you think?

A Well, around 9 o'clock, generally I am in bed.

Q You went right up from the porch to bed didn't you?

A Yes, almost; not directly no, but possibly it was a half an hour or so before.

Q You did not stop ^{long} on the way from the porch to bed, did you?

A No, - well, I don't know, it was not long.

Q You don't remember exactly the time?

A No.

Q But you think you went to bed around 9 o'clock?

A Yes.

Q And everybody else went the same time?

A Close to that, yes.

Q The roomers left?

A How is that?

Q The roomers left the porch, and the people upstairs left?

A Yes, sir.

Q And there were no neighbors?

A How is that?

Q There were no neighbors there?

A No, there were no neighbors there that night.

MR. TOMS: That is, Tuesday the 8th?

A Yes.

MR. DARROW: That is Tuesday the 8th.

Q Did you people there talk anything about colored people who moved in the next door or near by?

A Well, we said something about them, yes I suppose I don't remember the words.

Q The chances are that you did, aren't they?

A Yes, I suppose so.

Q You saw policemen around there?

A Yes, sir.

Q And you saw other people around there?

A Yes, sir.

Q And you knew why the policemen were there, didn't you?

A Why -

MR. TOMS: Just a minute. Objected to as incompetent.

THE COURT: Objection sustained.

MR. DARROW: I do not see how it is incompetent.

MR. TOMS: If he knew why?

MR. DARROW: It is a question of how he viewed the situation. Maybe I had better ask it in another way.

THE COURT: I think the form of the question is bad.

MR. DARROW: Yes, I think perhaps it is.

Q You do not often see seven or eight or ten policemen around a corner, do you, at once?

A No, sir.

Q And you had an idea why they were there, didn't you?

MR. TOMS: Objected to as incompetent.

THE COURT: Objection sustained.

Q (By Mr. Darrow): Were you surprised when you saw them?

MR. TOMS: Uh, well, that is objected to as immaterial

THE COURT: Objection sustained.

Q Did you talk about the policemen being there?

A I don't remember of saying anything, no.

Q You don't remember talking to your wife-

A No, sir.

Q Or the boarders?

A No, sir.

Q Or the neighbors, about why all of these policemen were there?

A Didn't mention that, no.

Q But you did talk about the colored people being there?

A Yes, sir.

Q Was there anything else talked about that night?

A Not that I know of, no, sir.

Q On the morning of the 9th, you got up as usualy, about the same time I suppose?

A Yes, sir.

Q And got ready and started away at what time?

A 6, around six o'clock.

Q Did you see anybody around the place there at that time?

A Nothing but police officers at that time of the morning.

Q How many were there at that time?

A Well, I couldn't say as to how many. I think I saw - there must have been around three or four, up and down in front and at the side and in the alley.

Q Did any ~~sixth~~ people drive up in an automobile and talk to you that morning?

A No, sir.

Q Did you say you did not see anybody around there but police officers?

A That is all.

Q Weren't there people standing around at that time?

A That morning?

Q Yes, that morning, when you got up, I mean?

A No.

Q Where do you take the car?

A I take the car, west, back of the house there on Bewick, at the car stop.

Q You did not go up to the corner, did you, of your street and Charlevoix?

A Yes, I walked out in front of the house, and up to Bewick, passing this house.

Q And you saw nobody but policeman around?

A That is all.

Q Did you see anybody on the streets?

A Well, a few fellows going to work.

Q You do not remember who, do you?

A No, sir. I don't know them all by name. Several of their faces, I know.

Q Now, on the 9th, you were not around the house that day until the evening?

A No, sir.

Q Where did you get on the street car?

A Coming home?

W Yes.

A I got off at St. Clair, coming home.

Q What?

A St. Clair, that is the street east, on the car line. I come a different route coming home.

Q Is that then the street cars get to Garland?

A Yes, sir.

Q Did you go to the corner of Garland and Charlevoix?

A I did not. I came in at the alley, at the back of the house.

Q And you went straight to the house?

A Yes, sir.

Q And after your dinner, then you went out - supper, we will call it?

A Yes.

Q Then you went out on the porch?

A Yes.

Q The roomers were there?

A Yes, sir.

Q Your wife and baby were there, and the people upstairs were there, that is right, isn't it?

A Yes, they were there on the porch at that time.

Q You brought out some chairs, I suppose?

A Yes. Most of the fellows sat on the bannisters, or stand up, sort of.

Q The porch was pretty well filled up, wasn't it?

A Well, no.

Q Well, you could have got a few more on, could you?

A Yes, we could.

Q Some come later, didn't they?

A No, sir, not upon the porch.

Q Nobody more upon the porch?

A No.

Q They came and sat on the steps didn't they?

A Yes, there was one fellow on the steps.

Q Do you know how many were there?

A Just how many?

Q Yes.

A Well, there was seven part of the time and part of the time there were eight.

Q Is that all?

A How is that?

Q Is that all?

A Yes, sir.

Q Did that include what were on the lot in front?

A Well, on the lot in front, there was three that I can name.

Q And how many were there that you could not name?

A Possibly there two or three or four more that I could not name.

Q You did not know them?

A I didn't notice just who they were.

Q Well, now, were they there or were they not? Were the people whom you could not name there, or were there not such people there?

A I don't know. I never noticed just who they were.

Q Well, then, you don't know whether there were any people there besides these two or three that you could name, is that right?

A I am not sure who they were. I know I could see- you know, just there on the porch, I knew there was somebody in front there, but I never noticed just who.

Q How long were they there?

A The people were passing.

Q How?

A They were passing.

Q Did they stop, anybody there?

A Oh, possibly stopped for a little while.

Q Well, do you know whether they stopped or not; not "possibly"?

A Yes, they would stop.

Q Well, now then tell me. Do you know how many stopped?

A No, I do not.

Q Or who stopped?

A No.

Q You did not recognize them at all?

A Not all of them, no.

Q Any of them?

A I didn't pay any particular attention to who was walking down the street.

Q I didn't ask you that. Did you recognize them?

A No.

Q You don't know where they came from, or where they went to do you?

A No.

Q Or how long they stayed?

A No.

THE COURT: Is this a convenient place to stop?

MR. DARROW: Yes.

THE COURT: We will adjourn until 2 o'clock.

(Whereupon a recess was taken until 2
o'clock P.M. of the same day, Friday, November 6, 1925.)

THE COURT: All right, you may proceed.

RAY DOVE, resumed the stand for further examination.

CROSS EXAMINATION (Continued)

BY MR. DARROW:

Q Mr. Dove, what time that evening did you first see Mr. Briener? I am referring to the 9th now?

A The 9th?

Q The 9th, yes.

A Well, it was shortly before 8 o'clock that day.

Q Well, how long after you got out on the porch, or don't you remember?

A Fifteen or twenty minutes, I guess, something like that.

Q Where did you see him, first?

A Going down the street, I imagine to the store, passing to the store.

Q Well, as a rule, you can't say what you imagine, but let it go at that. How long was it before he came back?

A Well, I don't -- I never saw him pass back by, but just before the shooting I saw him in the yard again.

Q You don't know where he was between the time he went down the street and the time he came back to the yard?

A No.

Q You don't know what he was doing?

A No.

Q Well, it was in the neighborhood of a half an hour, wasn't it?

it?

A Yes, close to it.

Q You did see him coming back?

A I didn't see him coming back.

Q Oh, no, you said you saw him in the yard. Whereabouts in the yard?

A Right in front of the steps, coming on the -- well, I marked it here this morning.

Q Did he stop when he went down?

A No, he did not.

Q Did he stop when he come back?

A Well, I couldn't say as to that. I saw him in the yard directly before the shooting.

Q How long before?

A Well, just three or four or five minutes, something like that.

Q Did you speak to him?

A No, I did not.

Q He didn't speak to you?

A No.

Q Did he speak to anybody that you saw or heard?

A I didn't see him speak to anyone.

Q Just standing there?

A Yes.

Q All by himself?

A Well, yes, he was at the time that he was shot.

Q When you first saw him?

A Yes, he was -- when I first saw him after he came back

to the yard he was standing out in front of the steps and then -- I noticed him move over to the next yard, and I don't know -- and then he went right back.

Q He stood out in front of the steps, and did anybody speak to him or he to anybody?

A No, I didn't see that. Only what I know is what I heard, that he was standing there talking to another man. I didn't notice the other man speak to him or he speak to the other man.

Q But you noticed him and noticed a man near him?

A Yes.

Q But you don't know who he was or what he said, if there was another man?

A Well, this man next to him there was Houghberg, but as to the two talking I could not say for sure because I didn't hear him.

Q And then he moved north, and then came back, is that it?

A That is the way that I saw it, yes, sir.

Q How far north did he go?

A Well, I don't know. It was rather dark in this yard. I don't know how far he went, whether he went back to his home and right back or not.

Q Had he time to go to his home and get back?

A Well, not unless he just went and turned right around and came back in a hurry.

Q Did anybody come back with him if he did come back?

A No, there was nobody with him when he came back in the yard.

4
Q And he did not speak to anybody as far as you knew?

A No.

Q How close was he to anybody when he was shot?

A Well, the closest fellow must have been the other man that was shot.

Q What?

A The closest fellow must have been Houghberg, to him.

Q Do you know how close he was to him?

A I guess five or six feet, something like that.

Q You people were sitting out there during the evening. Were you talking any?

A Well, yes, back and forth.

Q What about?

A Oh, I don't remember exactly what all was said, just commonplace remarks.

Q All commonplace remarks?

A Yes.

Q Did you say anything about Dr. Sweet?

A I didn't.

Q Did anybody?

A I didn't hear anybody.

Q Did you say anything about colored people moving into the neighborhood?

A Well, I suppose yes; there was some words to that effect, something about it, yes.

Q Do you know who said it?

A No.

Q Do you know what they were?

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A No, I don't.

Q You were sitting there on your porch an hour, and most of the others, before this happened, or nearly that, weren't you?

A Well, yes, close to it; forty-five minutes.

Q Well, as I remember it, you said you got there about half past seven?

A Yes.

Q And got home about half past six and you allowed an hour for supper and you got out at half past seven?

A Yes, sir.

Q And hour would give you plenty of time to eat, wouldn't it?

A Yes.

Q Unless you had a banquet or something like that?

A Well, no, but it takes a while to wash up for me where I work.

Q Well, you could even wash up and eat in an hour, couldn't you, without much trouble?

A Well, yes.

Q And if this happened at twenty-five minutes past eight, fifty-five minutes, you would get there at seven-thirty, wouldn't you? I guess anybody could figure that?

A Around there, yes.

Q Our difficulty is with that you might not have got there just that time?

MR. TOMS: It is a good conclusion if your premise is right.

MR. DARROW: Yes, if the premise is right, it is

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all right.

Q Now, you don't remember what was said?

A No, I don't.

Q Was there any talk or were you all sitting quiet?

A Oh, yes, there was some talking but I wasn't taking much of a part in it myself. I was off, really, to myself mostly, me and the baby.

Q You were just off by yourself, playing with the baby?

A Yes.

Q You didn't talk to the baby about the colored people?

A Not very much.

Q You didn't see anything unusual around there, did you?

A No, nothing to speak of.

Q Didn't you?

A Well, I saw some people, yes, a few more than generally.

Q Not many more?

A How many more?

Q Not many more?

A Not anymore, no.

Q Just about an ordinary evening with you down there?

A Yes, a little over a normal evening.

Q Just a little over a normal evening?

A Yes.

Q Well, you saw the policemen?

A Yes, sir.

Q Which was not unusual?

A Not for two days, it was not, no, sir.

Q You had seen him one day before?

A Yes, sir.

Q And got kind of used to him. No remarks made about the policemen, what they were going to do, or what they were there for?

A No, sir.

Q You didn't know but what they were looking for bootleg stuff or something like that, you haven't any idea, I suppose?

A Well, I had an idea what they were there.

Q You did have an idea. Well, now, you said that there were seven in your house, all out on the porch, and what others were there?

A Houghberg was on the steps.

Q That made eight, and what else?

A And Briener and Mrs. Inquess in the yard.

Q That would make ten, that is all?

A That is all that I could account for and name by name.

Q How many were there you could not name?

MR. TOMS: Wait a minute. Just a minute, you have misstated the figures, Mr. Darrow, in his previous testimony.

MR. DARROW: Let us have it right. I don't desire to do that.

MR. TOMS: Yourself and your wife and the baby, the lady who lives upstairs, the lady who lives next door and your two roomers.

A When is this, now, do you mean? This is at the shooting or just before?

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Q Well, just before the shooting, right around that time?

A Well, the man upstairs, just during the shooting he was upstairs, but he had been on the porch there.

Q Yes?

A That would make eight, counting Houghberg, but right at the time of the shooting he was upstairs.

Q Yes. Well, is that right?

MR. TOMS: That is right.

Q And you say there were three in the yard?

A Yes.

Q That you knew?

A That I knew.

Q Or have you included these in the three?

A The three in the yard makes ten.

Q That would make eleven, including the man that went upstairs? Well, we will figure that out. I guess that is right, isn't it?

A No, that would make ten.

Q All right, ten, and there might have been -- there were some more in the yard that you didn't know, is that right?

A There possibly was two or three or four, something like that.

Q Yes, and you don't know how many there were in the next lot?

A Oh, I don't know.

Q You testified in this case before, didn't you?

A Yes, sir.

Q Let me read you a question and answer, and I will show it

to you:

"Q. There were fifteen in your yard?

A. Yes, sir, and two or three in the vacant spot."

I suppose that should have been "lot", I don't know. That is down in here (indicating). Now, there is some more up here. I don't know as you would change it any(indicating). Now, there is a little going before there, gentlemen, I think, a page back. I think it is all the same thing. Is that correct, did you make that statement before?

A Yes, sir, I did, but as to being sure of the - - just how many, I was not.

Q How is that?

A As to being just sure how many there was, I didn't state it that I was sure that there were just exactly fifteen.

Q Well, there are how many of this number whose names you knew? Now, there is the seven or eight in your house @ - seven in your house?

A Seven and the three.

Q And the woman next door, the man that was shot. Any others?

A And the other fellow, the two that was shot.

Q Well, he was one?

A He was one that was in the yard, one of the three. That makes ten that I can account for by name.

Q Yes. And there were fifteen there, and that did not include the men on the adjoining lot, did it?

A No, sir.

Q That would make eighteen?

A I said there were possibly three or four or five more in the yard.

Q Yes, there were eighteen or twenty around there?

A Yes, and two or three in the lot.

Q Yes, and ten of them you knew?

A Yes.

Q Including yourself?

A Yes.

Q I don't know whether we are sure we know ourselves, but we will assume you do. And the others unaccounted for, that is, you didn't know who they were?

A No, sir.

Q Now, did you hear a conversation around there with reference to the people across the street?

A Before the shooting?

Q Yes.

A Just how long before the shooting?

Q Any time while you were sitting there?

A I did; I heard some talking of the negroes.

That is the reason that you people were all there, wasn't it, on account of the people across the street and the situation there in reference to them?

A Well, we were out there on the porch just seeing.

Q Was that the reason you were there?

A Well, I was on the porch just seeing what could be seen there, and that is all.

Q In reference to that matter, wasn't it?

A Well, yes.

Q Yes. You were not in the habit of having that many people in your house, porch and on the lawn, were you?

A Well, not at all times, no.

Q Do you remember any other occasion when you did?

A No -- well, of course, we have company sometimes when it was warm.

Q Do you remember any occasion when you had that many before?

A No, I do not.

Q You would not contend for a minute that that was the usual thing, would you?

A No, it is not exactly what we would call usual.

Q And you knew the occasion of their being there, didn't you, or suspected it?

A Yes, sir.

Q And that was talked about, wasn't it?

A Yes.

Q Now, there were a number of people walking up and down on the sidewalk that you -- during the whole time, weren't there?

A Yes, there was some people walking up and down.

Q And there were people -- you could see off down the street people all along the street, weren't there?

A There were some people down the street, yes.

Q And there were people on the schoolhouse yard right across the corner from this house?

A Yes, sir.

Q And there were people on the other side of Charlevoix Street?

A That is the side I am talking about, the schoolhouse side.

Q Well, that might have been right, but I mean, now, the apartment building on the other side of Garland?

A Well, I expect there were some on that side. I never noticed.

Q No lack of people around there, was there?

A Well, there were several.

Q Oh, what do you mean by "several"?

MR. TOMS: What do you mean by "lack of."

Q Well, 5,000?

A No, there was nothing like that.

Q Have you any idea how many people were inside of two blocks there?

A Inside of two blocks?

Q Inside of two blocks

MR. TOMS: Could you see for two blocks?

A I couldn't see that far.

MR. TOMS: Well, why guess at it?

Q Well, you saw plenty as far as you could see, didn't you?

A Well, as I said this morning, I judge there was fifty that I could see.

Q Within how much space?

A Well, on the school yard and directly north of my house.

Q Could you see the school yard?

A Could I see the school yard?

Q Yes.

A Yes, sir.

Q Distinctly?

A Yes, sir.

Q How many were there?

A Oh, I don't know. There were fifteen or twenty, I suppose.

Q You could see the schoolyard distinctly from where you were, could you?

A The front part of it.

Q Well, you couldn't see very much of the front part, could you?

A Well, from the sidewalk - - from the curb to the fence.

Q 'Id you go out to the curb and look?

MR. TOMS: No, no, he means the curb of the school.

Q Oh, the other curb.

A From my porch I could see from the curb of the street over there in front of the school back to the fence, the lawn.

Q All right. You can see from your porch here along this curb and back to a fence?

A Yes.

Q How far back was the fence?

A That is just back from the sidewalk a piece. I don't know just how far.

Q Well, could you say about how far?

A Three or four feet.

Q Oh. A gate in there?

A Yes, there is a gate there.

Q Or gates?

A There is a gate.

Q And the schoolhouse across covers half a block or so or a whole block?

A A whole block.

Q A whole block?

MR. TOMS: The schoolhouse or the schoolhouse yard?

Q The school yard?

A The school yard.

Q And you could see two feet back there ?

A From the curb I imagine it was fifteen or twenty feet anyway, fifteen feet.

Q You could see fifteen feet back from the curb?

A Yes, sir.

Q And clear down the length of it?

A Well, not all the way, the length, no, sir.

Q Well, you are talking about the people you saw, of course, and not about the number of people that might have been there? You could not talk about anything else than that?

A No, sir.

Q And your place is set back from the street?

A Is my place set back from the street?

Q Yes.

A Yes, sir.

Q How far?

A About twenty-five feet from the curb, yes, of the street.

Q Where is it with reference to the store?

A The store is just south of my place.

Q I know, but which comes nearest to Garland?

A Well, the house is the closest.

Q The house comes nearer?

A The porch is, at least. The house, I believe, is back further, that is, the front of the house, not talking about

the porch at all.

Q Did you see anybody over in front of Dr. Sweet's place?

A No, I didn't.

Q At any ~~time~~ time?

A Nothing - - well, I did, the policeman at one time.

Q At what time?

A Just before the shooting awhile?

Q How long before?

A Five or ten minutes.

Q Whereabouts was he?

A He was walking up and down in front of the house.

Q One policeman?

A One of them was by himself, that is all I noticed.

Q And where did he stand?

A He was walking up and down in front of the house.

Q Oh, up and down. You didn't see any other policeman there?

A Oh, there were policemen up and down Charlevoix Street there.

Q Did you hear any remarks made by the people concerning the colored people, the people who passed, or any other people?

A No, not the night before the shooting, no.

Q What?

A Not directly before the shooting.

Q Did you at any time while you were sitting there?

A No, I did not, not that I remember.

Q When did you, if at all?

A

A Well, after hearing that they were moving in there, I heard talk.

Q Well, did you on that evening?

A No, not on that evening to amount to anything at all there only when I came to see the house and my wife says, "They have moved in."

Q Well, now, I did not mean to go over that again, but you don't mean to say that while you were sitting there you did not hear remarks about the situation, do you?

A I didn't pay much attention, because, as I told you before, I was with the baby.

Q Do you know whether you sat there for upwards of an hour with all those people around you in the street without hearing any remarks about it?

A Well, no, I didn't, really.

Q Did you make any?

A I did not.

Q Everybody was quiet, were they?

A I was.

Q Everybody else?

A Everybody else as far as I knew didn't have much to say.

Q And never said one word about why the policemen were there or about the colored people who just moved in?

A Not to me.

Q So far as anything you heard from the others you would never have known why they were there, would you?

A How is that, now?

Q So far as any conversation you heard from anybody else,

you would not know why all those people were there, would you?

A Well, I figured, yes, that --

MR. TOMS: Now, wait a minute.

Q Well, so far as any conversation from what you heard of others, so far as anything you heard anybody say there for the time you were out there, you would not know what all those people were around there for, would you?

MR. TOMS: Just a minute, that calls for a conclusion. If he wants the conversation that he heard from someone else, no objection.

THE COURT: The objection is sustained.

Q Do you know, now, whether you heard anybody speak about the presence of the police and the cause for it, or the number of people there, and why it was, or not?

A No, not that night.

Q Not that night?

A No.

Q And you made no remarks yourself about it?

A I did not.

Q To anybody. Did you talk to anybody that night at all?

A Not to amount to anything.

Q Well, did you talk at all while you were out there?

A Well, maybe -- yes, to my wife, maybe, or one of the boys or Mrs. Henley, I might have had something to say.

Q Well, do you know what you said?

A No, I do not.

Q By the way, do you remember whose automobile it was that

was there?

A Well, I - -

Q From your own knowledge?

A No, I can't say from my own knowledge just whose it was.

Q What?

A I can't say just from my own knowledge just whose it was.

Q Did you make any inquiries?

A Well, I did not, but - -

Q At the time?

A At the time I did not.

Q I believe you are a member of the Waterworks Improvement Association?

A Yes.

Q How long have you been?

A Do I remember it?

Q I say you are a member, I believe.

A I am not.

Q Are you not?

A I am not.

Q You have got a card hanging in your window, haven't you?

A I have not.

Q Well, now, on page 56 - - of course, sometimes the court reporter makes a mistake -- "Are you a member of the Waterworks Improvement? A I am."

MR. TOMS: That is not his testimony. Is that his testimony? No, it isn't.

MR. DARROW: Oh, isn't it? Counsel says I was reading too far over and I guess I was. You are not

a member of it?

A I am not.

Q You say there were two volleys fired?

A Well, yes, it seemed as though it was two to me.

Q Are you sure about that?

A Yes, there was a slight intermission between two volleys.

Q Turn to page 32. Was this your testimony at the former hearing:

"Q. How many shots were fired in your estimation?

A. Well, there was I should say very close to twenty shots.

Q. Were they fired in rapid succession, or with intervals between?

A. Very rapid."

That is the answer, "Very rapid."

"Q. Was there just one volley so to speak or several volleys?

A. Well, yes.

Q. Yes, which?

A. You might call it one volley."

A Well, you might and you might not.

Q Well, which was it?

A It was such a close -- you couldn't say distinctly whether it was one volley or two volleys, but I would almost say it was two volleys. The intermission was so small.

Q How long was it, in your opinion, from the first shot until the last one?

A Well, just a few -- just a mighty little time.

Q Well, would you put it seconds or minutes?

A Well, more than a second, yes.

Q Well, I mean seconds, not a second; estimated by seconds or minutes?

A Well, it was - -

Q Oh, if you haven't any idea - -

A No, I don't know. It was between a half a minute and a minute, something like that.

Q You said in your testimony before "In a very few seconds", didn't you? All the time you were there that evening you had your attention on the street, didn't you?

A Yes.

Q And looking towards Dr. Sweet's house?

A What time I was not playing with the baby, I did, yes.

Q Well, when you were playing with the baby you could look up there, couldn't you?

A Oh, yes, I could see them.

Q And you were just across the street from it?

A Yes.

Q And you were observing everything you could see and everything you could hear, weren't you?

A Yes, sir.

Q You didn't see any stones thrown?

A I didn't.

Q You didn't hear any glass broken?

A I did not.

Q Do you know just how many feet away you were from it?

A Just how many feet from Sweet's house?

Q Yes?

A No, I don't know just how many. It must have been one hundred feet, close to it.

Q You have seen where the glass was broken in the front room upstairs, haven't you?

A I have.

Q And you didn't hear it?

A No, sir.

Q Did you see anybody come up to the door and get out of an automobile just a little while before this happened, that is, ten minutes or fifteen?

A In front of - -

Q Dr. Sweet's?

A No, I did not.

Q Did you know that the streets were blocked around there so that they could not get up?

A Did I know?

Q Yes.

A No, I didn't know it.

Q You didn't know that. Can you estimate how many policemen you saw around there?

A Well, just before the shooting, I don't know; there was eight or ten, I guess, something like that.

Q For two nights together, every person in your house were out on the front porch, weren't they?

A Yes, sir.

Q The 8th and the 9th, every one of them. Did that ever occur before?

A Well, yes, we - -

Q When?

A I don't know just when.

Q Then why do you say "Yes"?

A Because I know that in the evening in the summertime we are out that way.

Q Do you remember when all of them were there before?

A Yes, sir.

Q When?

A The night - - oh, you mean - -

Q Everybody in those two faäts out on your front porch?

A Well, those two nights we were there, but before that I couldn't say just when or what night.

Q And you were not there because it was hot, were you?

A That night?

Q Yes.

A No, not altogether.

Q Were there any cars out in front of your place when you went to work in the morning? Now, think about a minute?

A I don't rmemeber.

Q Was there a Ford car out there?

A I don't remember.

Q Was there an automobile tire put on it in the morning?

A I don't remember that.

Q Did you help put it on?

A I didn't.

Q You don't know whether there was one there or not?

A No, I don't know whether it was there or not.

Q That is all - - now, nobody in your house owned a car, did

they?

A No, sir.

REDIRECT EXAMINATION

BY MR. TOMS:

Q Some of the people that you saw in the neighborhood, Mr. Dove, were women and children?

A Yes; there were more women and children than anything else.

Q More women and children than there were men?

A Yes.

Q Do you actually know whether there was anybody in the vacant space between yourself and the store? You say, "I think possibly there were." Did you see any?

A No, I don't know for sure.

Q And if you didn't see any, of course, you don't know how many there were, if any?

A No, I don't, I couldn't say.

MR. DARROW: Now, was that in the vacant place there?

MR. TOMS: Yes.

Q Outside of the people who lived in that building, there were only three people, you have testified, on the porch or directly in front of it?

A All that I knew, yes, sir, and all that I saw there that was there.

Q Now, when you count other people in front of the house, do you mean on the sidewalk, on the public sidewalk?

A Well, there was people, yes, passing up and down the sidewalk, but I didn't include them in the yard. That was my yard.

Q Can you tell us definitely how many there were besides Briener and the lady from next door and Houghberg?

A Oh, there wasn't - - at any one time in front of my house there wasn't more than three or four couples walking past.

Q No, I mean in the yard?

A In the yard?

Q Yes, sir.

A No, I can't say definitely.

Q Well, can you say not more than a certain number?

A I don't think there was more than fifteen.

Q Fifteen besides Briener?

A No, including Briener and we on the porch.

Q Well, now, you have got the people who live in the house, Briener, Houghberg and the lady who lived next door?

A Yes, sir.

Q Now, outside of those, eliminating those - -

A Outside of those?

Q How many more were there in the yard, not passing up and down, if you know?

A I don't know, but I wouldn't say that there was over fifteen, because I don't believe - -

Q Eliminating all people that you have enumerated here, the people in the house?

A Well, there wasn't over four or five.

Q Not over four?

A No, or five.

Q Did you see any shots fired from any other place except Dr. Sweet's house?

A I did not.

Q Did you at any time on either the 8th or the 9th see any persons armed in the neighborhood?

A I did not.

Q When did you first notice the broken glass in Dr. Sweet's window?

A Well, I noticed that the next day.

Q You don't know when that occurred?

A I don't know, I couldn't say.

Q Had you ever noticed any broken glass there before that?

A I had not.

Q Either on the 8th or the 9th?

A I had not.

Q Did you see any stones thrown on either the 8th or the 9th?

A I did not.

Q Where ~~were~~ were the more people, on the east or the west side of Garland Avenue on the night of the 9th, that is, on your side or Dr. Sweet's side?

A Well, on my side. There wasn't no one on Sweet's side of the street, only, maybe, two or three on the porches north of his house and a policeman or so around the house on Garland and Charlevoix there.

Q And there wasn't anybody over on -- directly in front of Dr. Sweet's house?

A There was not.

MR. TOMS: That is all.

REGROSS EXAMINATION

BY MR. DARROW:

Q Just a minute. Do you mean to say that you didn't know that there was anybody there except the people you were acquainted with, I mean on your place and the adjoining place?

A Yes, there were a few walking up and down, and I could see - -

Q There were people standing there, weren't there, besides the ones that you knew?

A No, not that I could say for sure, no, sir.

Q Didn't you tell this jury a while ago that there were but you didn't know their names?

A I said possibly there were.

Q But you haven't any idea whether there were or not, is that right?

A Yes, right directly in my yard, that is what I am speaking of.

Q What?

A In my yard.

Q Have you any idea whether there people on the adjoining space here, this vacant spot?

A Oh, in the vacant spot?

Q Right here adjoining?

A No, I haven't.

Q You don't know about that?

MR. TOMS: I think you are on the wrong side of the street, Mr. Darrow.

MR. DARROW: Yes, that is right.

A You mean between my house and the store?

Q Yes.

A No, I am not definite about that, I don't know.

Q Well, did you say this at the former hearing, page 40,
down below:

"Q. There were fifteen in your yard?

A. Yes, sir, and two or three in the vacant spot."

Probably meaning "lot." Did you say that?

A I said "possibly."

Q You did not say it the way it is put down here?

A No, sir.

Q Haven't you told me that you saw people in the vacant
spot and you didn't know who they were, in answer to these
questions?

A No, sir.

MR. TOMS: What do you mean by the "vacant spot"
now?

MR. DARROW: Right adjoining his house.

MR. TOMS: Well, do you mean in front of your house
or between his house and the store?

MR. DARROW: Between his house and the store.

Is that right, haven't you said that?

A I said possibly there was. I didn't say there was.

Q Possibly there were people in the moon?

A Yes.

Q Do you know any reason -- can you say whether there were
people there?

A I said no.

Q Do you know whether there were any people on your lot
whose names
except the ones/you have mentioned?

A No, I do not.

Q And you haven't stated here today that there were but still
you couldn't name them?

A I have stated that?

Q Have you or have you not?

A I have not.

Q What do you think about it, were there other people there
whose names you have not stated?

MR. TOMS: Now, where?

Q On your lot and on that vacant lot adjoining?

A None that I could say positively.

Q Have you got any judgment on it, sir?

A No.

Q You saw people way down as far as the schoolhouse, didn't
you?

A Yes, sir.

Q And you don't know whether you saw any more on this lot or
not, is that right?

A Yes, I am not sure.

Q And when you answered this question that you had seen them
before, fifteen of them and two or three on the adjoining
one, you did not know anything about it, is that right?

A I didn't change that - - make that statement, I don't
believe.

Q You didn't?

A I says "possibly."

Q "Q. There were fifteen in your hard?

A. Yes, sir, and who or three in the vacant spot."

You didn't say that?

A I don't remember saying it that way, not meaning it that way.

Q Didn't you say it many times? Weren't you asked the questions and didn't you make these answers - - I am referring to page 39 and the top of 40 - - how long did he stay, and so on, referring to the man who was shot, and then:

"Q. And there where did he go the first time he passed by?

A. Well, I suppose he went back to the house.

Q. He went back up north on Garland?

A. He went that way.

Q. How long did he stay up there before he came back?

A. Well, I don't know, he came back just before the shooting, I know.

Q. Now, he was talking to you at the time of the shooting you said yesterday, didn't you?"

A No, sir.

Q That is right, listen to my questions.

"Q. What was he doing?

A. He was standing out in the front yard just from the steps.

Q. Who was he standing with?

A. Well, there were two or three around there right close to him.

Q. There were two or three around there right close to him?

A. Yes, sir.

Q. Who were they?

A. I could not say as to just who they were. It is rather dark right there, all them trees, see."

Q Did you make those answers before?

A They were not on my lot, though.

Q All right, go on and tell it.

A They were not on my lot.

Q Where were they?

A Those that were standing there were north of me on the next lot.

Q How far north of you?

A Well, they were across the line, I am positive.

Q Now, let's take this again:

"Q. Who was he standing with?

A. Well, there were two or three around there right close to him.

Q. There were two or three around there right close to him?

A. Yes, sir.

Q. Who were they?

A. I could not say as to just who they were. It is rather dark right there, all them trees, see.

Q. Were they standing behind the trees?

A. They were standing just on the side of the trees on my sidewalk."

Is that correct?

A Yes, sir.

Q Did you say that there were three -- two or three men that you didn't know?

A Mr. Briener was there, yes, sir, and the others were standing close.

Q Two or three that you didn't know?

A Yes, sir.

Q Where were they standing, sir?

A They were standing on the next lot, just north of me.

Q How close to you?

A Well, they were twenty-five feet from me.

Q And how close to your lot?

A Well, just -- you might say right just across the line, maybe two or three feet.

Q Well, is there any line there?

A Well, no, there is no line there.

Q No line you can see in the dark, was there?

A No, sir.

Q There were people all up and down the street, too, weren't there, isn't that so?

A There was some people up and down the street north, yes, sir.

Q Now, just one or two more I want to ask you. Where is the next house, which way?

A North.

Q North. Were there people standing there in front?

A Well, yes, there were people up that way.

Q What?

A There were people up that way, yes, sir, north.

Q How many?

A Well, I couldn't say.

Q You couldn't say?

A As to how many, no, sir.

Q What were they doing?

A Well, they were walking up and down the yard here, there was a few in the yard, I guess, but I didn't notice how many or anything like that. These three I knew was there close to Briener.

Q You didn't try to find out how many people were around there, did you?

A I didn't.

Q Or anywhere else in that vicinity?

A No, sir.

Q Did you try not to?

A No, sir.

Q Did you say there were more women and children than men?

A There were.

Q How many women and children were there in the fifteen or so around your house?

A Well, there was only my baby.

Q Yes.

MR. TOMS: And women?

A And women.

Q Yes, how many women and children?

A Three.

Q Out of fifteen. What were the rest, men?

A Yes.

Q Where did you see more women and children than you did men?

A Up and down the streets north of me and across Charlevoix.

Q Across Charlevoix where?

A Right in front of the schoolhouse.

Q Could you see down the schoolhouse yard and tell how many women and how many men there were?

A Yes, sir.

Q How many children?

A There was lots of them.

Q How many men were there there?

A I don't know about that.

Q And how many women?

A I don't know.

Q How many children?

A Oh, I judge there was twenty-five altogether, something like that.

Q Did you count men, women and children anywhere?

A No, I did not.

Q Not even in your own place, did you? I called your attention to it?

A Well, I knew how many were there.

Q Well, did you count them anywhere else?

A I did not.

Q Did you ever in your life until that question was asked you, did you ever try to make an estimate of the relative number of women and children and men?

A No, I did not.

Q You made that right at the time when the question was

asked?

A Just now?

Q Yes.

A Yes, sir.

Q And as long as it was asked by counsel for the state you thought you were safe in answering it?

MR. TOMS: Just a minute.

MR. DARROW: That is all.

THE COURT: Read the question and answer.

MR. TOMS: It wasn't answered.

MR. MOLL: I ask that that be stricken from the record, if the court please.

MR. DARROW: I think it is competent.

THE COURT: The statement may be stricken out.

MR. DARROW: Did the court pass on it?

THE COURT: Well, do you want to insist on it?

MR. TOMS: He insists on an answer.

THE COURT: Well - -

MR. DARROW: Let him answer it, then.

MR. TOMS: Let's see whether the court says he can answer it.

MR. DARROW: I thought you had withdrawn your objection.

THE COURT: The question is asked and you want an answer. Read the question.

(The question was read by the reporter.)

THE COURT: You may answer.

A Just what was that question?

Q You said you never thought before the question was asked what the relative number of women and children as compared with the men were, is that right?

A Well, no, I didn't just think of it, no.

Q As long as the counsel for the state asked the question, you thought you were safe in answering it right off, didn't you?

MR. TOMS: Wait a minute, I object to that as incompetent, irrelevant and immaterial.

THE COURT: I think, Mr. Toms, that is quite fair in testing the credibility of the witness on that point and I will permit an answer to the question.

Q Is that right?

A I didn't think of it, no, I didn't just - -

Q No, but the reason you answered so promptly was because Mr. Toms put the question, wasn't it?

A No.

Q Did you have any chance to do that when the question was asked you for the first time? Didn't you answer it before you had any chance to think of it?

A Well, no, because you can see women and children in a crowd, you will notice them pretty quick.

Q You don't know anything, now, do you, as to the number of men, the number of women and the number of children?

A I am not positive, no, but - -

Q Except those around this house?

A No, not positive.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q You say you are not positive, but the statement which you volunteered, that there were more women and children than there were men, is that your best recollection?

MR. DARROW: Wait a minute, now, I object. There is two reasons. First, he did not volunteer it. The question was asked him.

MR. TOMS: He did volunteer it.

A Yes.

MR. TOMS: I asked him if there any women and children there and he said yes, there were more women and children than men.

MR. DARROW: I object to his repeating it.

THE COURT: Don't repeat it, ask the question again, now, if you want to, Mr. Toms.

MR. TOMS: Read it, please.

(The question was read by the reporter.)

THE COURT: You may have an answer.

A Yes, that is my best recollection, that there was more women and children than men.

RECROSS EXAMINATION

BY MR. DARROW:

Q Do you know of any place except around your own house -- do you know anywhere else where you know how many men there were or how many women there were or how many children there were?

A No, I didn't count them.

Q That is all - - you have often talked with counsel here on the other side about this case, haven't you?

A I have never met Mr. Toms until today.

Q Was anybody from the office?

A Well, Mr. Johnson has been out.

Q Mr. Johnson sits right here at the table, doesn't he?
(Indicating)?

A Yes.

Q You talked with him how many times?

A Well, just a few times. He was generally out there during the day when I am at work.

Q Have you read this testimony over?

A No.

Q He has come to your place of work to see you, has he?

A No.

Q At your home?

A At my home.

Q Have you been down to their office to talk to him?

A Have I been down to his office?

Q Yes.

A I come to his office before coming up here.

Q Yes, how long were you there?

A Well, all the witnesses came to his office.

Q How long were you there?

A Oh, ten or fifteen minutes, something like that.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q Has Mr. Johnson or anybody else connected with the state discussed with you what you would testify to?

A He has not.

Q Or have they gone over with you your testimony at the examination?

A He has not; no one.

Q In view of the question which was asked the witness, a detached, separated question on the examination -- I am referring to page 40 next to the last line -- I ask leave to ask the witness about other questions, a part of the same context, questions and answers. Let me ask the questions first and that will raise the point, if you like. At the examination in this case, were you also asked this question and did you make this answer -- the middle of page 40 --

"Q. There were fifteen in your yard?

A. There weren't so many, I didn't notice the crowd up further if there was any.

Q. What is that?

A. I didn't notice the crowd up further."

Now, my question will be when I finish it whether you testified as I am reading to you. Please bear that in mind:

"Q. There was someone up there."

MR. HAYES: Well, just a moment, I object. I think we have gone far enough to get a ruling on this question, and I object. I don't see how it is competent, relevant or material. We are permitted to read for the purpose of impeaching the witness. If he said different

things at different times in this testimony, we can read what we wish.

THE COURT: Isn't that correct, Mr. Toms?

MR. TOMS: No, they can't pick out a detached statement which is explained in the context of the testimony and which is misleading when standing alone, and impeach the witness by that one statement.

MR. DARROW: That is probably true, your Honor, and I would not do it if I could.

MR. TOMS: And suppose that he had said after this statement, "I didn't understand that question", wouldn't I be permitted to show that?

MR. HAYES: I don't see --

MR. DARROW: That refers to the yard and not to the porch.

MR. HAYES: Of course, I realize that where testimony is read, the whole of it ought to be read.

MR. DARROW: I am willing you read any part of it you want or all of it to the jury.

MR. TOMS: It is a part of the record in the case.

MR. DARROW: What he has testified to is, but I mean any part of the examination. I don't think either you or I want to get any wrong inference from it.

MR. TOMS: The questions which I am reading, your Honor, are on the same half page as the ones which Mr. Darrow read for the purpose of impeachment, and covering the same subject matter, applying to the same subject

matter, the same incident and the same location.

MR. HAYES: Your Honor, I can see where that may be where a witness is more or less hesitant, but suppose you start questioning a witness as was done here in a preliminary hearing and the witness is more or less doubtful, and finally he says "Yes, that is so", the fact that there were a long series of questions where he was doubtful does not affect the right to read that particular question without reading all of it leading up to it. If there is anything inconsistent with what he said, and he said something different which might mislead the jury or the witness, we are quite willing Mr. Toms read it, but I don't think that is the case.

MR. TOMS: That is exactly the situation.

MR. DARROW: I called your attention to all of it at the time. I called your attention to both statements.

MR. TOMS: But not the witness' attention.

MR. DARROW: I was going to show it to him and then I called your attention to it, although I am perfectly willing, willing to have it all read, glad to if I am wrong.

MR. TOMS: Is that the attitude of the defense, then?

MR. HAYES: Yes, if you read it all instead of a certain part. Read those two pages and then we will be certain what the witness said.

MR. TOMS: Well, that is all right.

MR. HAYES: All right, we ^{are} agreeable to that.

MR. DARROW: I think it is started in the middle of page 38 below.

MR. TOMS: I think the fourth line, the fourth question from the top of page 38 is the beginning of it.

MR. DARROW: The fourth line on the top of page 38.

MR. TOMS: "Whom did you find?"

MR. DARROW: All right, go ahead, let us see what it is.

MR. TOMS: To the bottom of page 40.

MR. DARROW: All right.

MR. TOMS: Shall I read it?

MR. DARROW: Do you want to read it?

MR. TOMS: I will put it in the form of a question.

Q Did you make the following answer -- in response to the following questions did you make these answers at the examination:

"Q. Whom did you find out there on the steps in front of your premises?

A. Well, there were a few of the neighbors walking around and up there on the porch sitting.

Q. You said yesterday there were fifteen people in front of that place, didn't you?

A. Well, there was around there.

Q. Who were these people, do you know?

A. I couldn't name them all, no. They were neighbors from around there close.

Q. You couldn't name fifteen people?

A. Oh, yes, I could name that many, yes.

Q. You said seven of those people lived in your house, didn't you?

A. Yes, sir.

Q. Who were they?

A. My wife, myself, baby, two boys that are rooming there, two people upstairs.

Q. They were all out on the front there?

A. Yes, sir.

Q. And about eight more people were there, you say?

A. Something like that.

Q. There were neighbors living in that neighborhood?

A. They were mostly all neighbors.

Q. Isn't it a fact - - "

MR. HAYES: You skipped a question, you omitted one there, "You don't remember the names of those eight people."

MR. TOMS: "Something like that."

"Q. You don't remember the name of those eight people?

A. Not all of them, no.

Q. There were neighbors living in that neighborhood?

A. They were mostly all neighbors.

Q. Isn't it a fact, Mr. Dove, there were more than fifteen people there?

A. No, sir, I don't think so.

Q. And the reason you don't know the names of them was because they were strangers?

A. No, sir, they were not.

Q. They were not strangers?

A. No, sir.

Q. Tell me some one else that was there besides from your family?

A. Well, there were the people next door, downstairs, and upstairs, were right there.

Q. In front of your place?

A. Yes, sir. Right there in the yard.

Q. They are as near to Sweet's house as you are, aren't they, the people next door?

A. No, no.

Q. About how far is that place from Sweet's place, anyhow?

A. My house is across the street.

Q. That is about 110 feet, isn't it?

A. Something like that.

Q. Did you hear anything said while you were out there?

A. Nothing to speak of at all.

Q. Were you talking?

A. I was sitting on the porch with the baby.

Q. Is it customary for fifteen or twenty people to gather around your house in the evening?

A. Well, we always have some visitors once in a while.

Q. Fifteen or twenty of them?

A. No, sir.

Q. Just what were you doing, Mr. Dove?

A. I was sitting on the porch holding my baby.

Q. You were talking, weren't you?

A. Tending to my own business. I was talking to no one.

Q. What were you talking about?

A. I wasn't talking to anyone.

Q. What were the rest of the people doing there?

A. Just walking around and some of them were in the yard talking, some were sitting on the porch. One fellow was sitting there smoking, Mr. Handly, and Mrs. Handly was standing right behind me, people upstairs.

Q. The people that were standing in the yard were talking. Who were they?

A. Well, I never paid any particular attention -- paid any particular attention to who they were.

Q. You heard them talking, didn't you?

A. Yes, sir.

Q. What were they talking about?

A. Well, nothing out of the ordinary.

Q. Tell me one thing that they said while they were there, please, Mr. Dove?

A. One fellow I know said he was going to the grocery.

Q. Did he go?

A. Yes, sir.

Q. And did he come back?

A. Yes, sir.

Q. What time did he get back?

A. Just before the shooting.

Q. Who was he standing with?

A. Well, there were two or three around there right close to him.

Q. There were two or three around there right close to him?

A. Yes, sir.

Q. Who were they?

A. I could not say as to just who they were. It was rather dark right there, all them trees, see.

Q. Were they standing behind the trees?

A. They were standing just on the side of the trees on my sidewalk.

Q. Were they standing in that alley there?

A. No, sir.

Q. How many people were standing in front of the next house there, Mr. Dove?

A. Well, there were a few more up that way.

Q. I mean the next house, the house next to your house?

A. Well - -

Q. There were fifteen in your yard?

A. There wasn't so many, I didn't notice the crowd up further if there was any.

Q. What is that?

A. I didn't notice the crowd up further.

Q. There was someone up there?

A. Yes, sir, there were evidently some people up there.

Q. Was there anybody standing in front of the vacant

lot, the vacant lot near the front of your house?

A. I don't think there was anyone on that to speak

of. Maybe two or three, or three or four.

Q. Yes. Now, how many were there?

A. I could not say just how many.

Q. Well, there were fifteen at your place, and some

at the next door, you don't know how many, possibly

two or three in front of the vacant lot, you are

not sure?

A. No, sir, I am not.

Q. There must have been thirty-five or forty people

there, weren't there?

A. No, sir, there wasn't that many.

Q. How many would you say?

A. Maybe fifteen to twenty.

Q. Altogether?

A. Yes, sir, altogether.

Q. There were fifteen in your yard?

A. Yes, sir, and two or three in the vacant spot.

Q. What were the people doing in the vacant lot?

A. Well, I wasn't paying any particular attention to what they were doing."

Now, the question is, Mr. Dove, is that your testimony as you gave it in the preliminary examination?

★ That is close to it, yes, sir.

Q You want to say that it is not a correct report of your testimony?

A I won't say that it is absolutely correct, no, sir, but that is near it.

Q Well, if I told you that I was reading from a stenographer's transcript of it, would that convince you that that was your testimony?

A Well, there could be mistakes made, you know.

Q Yes, but don't you concede that the stenographer's notes are probably more accurate than your recollection of it?

A Yes, I concede that.

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Q (By Mr. Darrow): I noticed your testimony here, as read, about the movements of William Briener. Did he come down past your house with the groceries and come back to your house, and then go to the grocery again?

A No, not that I know of.

Q You swore to it before the preliminary examination, didn't you?

MR. TOMS: No, no. It does not say that at all.

MR. DARROW: Let us make sure about it then. I will ask you this question, did you testify as follows:

"The people that were standing in the yard were talking. Who were they?"

A. Well, I never paid any particular attention to who they were.

Q. You heard them talking, didn't you?

A. Yes, sir.

Q. What were they talking about?

A. Well, nothing out of the ordinary.

Q. Tell me one thing that they said while they were there, please, Mr. Dove?

A. One fellow, I know, said he was going to the grocery.

Q. Did he go?

A. Yes, sir.

Q. Did he come back?

A. Yes, sir.

Q. What time did he get back?

A. Just before the shooting.

Q. And he stopped again when he came back, is that

true?

"A Yes, sir."

Is that correct?

A Well, I am not positive about that, whether he stopped or not, but I know he was back there just before the shooting.

Q You knew he went to the grocery, did you?

A Yes, sir.

Q And came back?

A I don't know whether he went to the grocery, but I know that he went that way.

Q That was your testimony before, wasn't it?

A Yes.

MR. TOMS: No, no. He said the man said he was going

to the grocery. He said he didn't know.

Q Well, you gave the testimony that he said he was going to the grocery. The next question is: (Reading).

"Q. Did he go?

A. Yes, sir.

Q. Did he come back?

A. Yes, sir.

Q. What time did he get back?

A. Just before the shooting."

Is that right?

A Yes, sir.

Q And that was this man who was killed?

A Yes, sir.

MR. DARROW: That is all.

MR. TOMS: That is all.

MR. DARROW: Just a second here.

Q (By Mr. Darrow): You testified further:

"Q. He had been there ~~then~~ ^{before} on the same evening,
hadn't he?

A. Yes, sir.

Q. How long did he stay there the first time he came?

A. Oh, he just passed by and didn't stay long.

Q. How long would you say?

A. About ten minutes."

Is that right?

A Yes, sir.

THE COURT: We will take a recess at this time for
15 minutes.

(Recess of 15 minutes taken at this point)

F R A N K L E E G I L L, was thereupon called
as a witness on behalf of the Prosecution, and having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q Your full name, please?

A Frank Lee Gill.

Q You are a police officer for the city of Detroit?

A I am.

Q And you were a police officer on the 9th day of September
last?

A Yes, sir.

Q To what station were you attached on that day?

A What was the question?

Q To what station were you attached on that date?

A The 5th Precinct, the McClellan station.

Q Did you receive orders to go to 2905 Garland Avenue in the City of Detroit on that day?

A I did.

Q When did you leave the station?

A At 3 o'clock P.M.

Q Did other men go with you?

A They did.

Q How many were there altogether detailed to that house, to that vicinity?

A Well, I don't know the exact number, but there was about eight men.

MR. DARROW: Was this the 9th?

MR. MOLL: The 9th.

Q And you left the station at what time?

A Three o'clock.

Q You were on the shift then from 3 in the afternoon until 11 at night, is that right?

A I was.

Q What were your orders with reference to this detail?

A To protect Dr. Sweet's home.

Q Were they more specific than that?

A Well, property, life; preservation of the peace.

Q And the preservation of the peace?

A Yes.

Q Who gave you your instructions before you went up there?

A The inspector.

Q Was that inspector Schuknecht?

A It was.

Q And you got up there, I take it, around three o'clock?

A Yes, sir.

Q Were you assigned to any particular duty or any beat with reference to the house?

A Well, I was assigned on the northwest corner of Charlevoix and Garland, and from there to the alley.

Q On Charlevoix?

A On Charlevoix, the north side of Charlevoix, from Garland to the alley, on Charlevoix.

Q That would be along the south side of the Sweet house?

A It would.

Q And you patrolled that beat that afternoon and evening?

A I did, up until 8 or 8:10 or 8:15.

Q And then what happened?

A And then I alternated with a fellow that was stationed near the alley, in the rear of the Sweet home.

Q Another officer?

A Yes, sir.

Q Were you in full uniform?

A I was.

Q Were the other officers in full uniform?

A Well, the ones who were out there with me were.

Q Was your attention attracted to any shooting in the evening

of the 9th?

A It was.

Q Did you hear or see the shooting?

A Yes, sir.

Q What did you see or hear?

A Well, I had been around the alley just a few minutes, so I heard a lot of shooting start.

Q Where did the shooting come from?

A It was coming from the Sweet home.

Q Now, is there a garage on the end of the lot?

A There is.

Q A large garage?

A Yes, sir.

Q How many cars does it hold?

A Three.

Q Did it completely cover the rear of the lot?

A No, not exactly.

Q Well, is there a space or yard in the alley?

A Yes, sir, there is a large space there.

Q How wide is the space?

A I judge three and one half or four feet.

Q Let's see, that is on which side of the garage, the north or south side?

A The north side.

Q That is the side farthest away from Charlevoix?

A Yes, sir.

Q Now, when your attention was attracted to shooting coming from the Sweet house, did you see any of the occupants of

the house?

A Yes, I did.

Q And who did you see, if you know?

A I don't know who it was. I saw two fellows on the back porch, on the roof of the house.

Q You saw two men on the roof ^{of} ~~from~~ the back porch?

A Yes, sir.

MR. HAYES: Just a minute. If your Honor please, this testimony is being taken subject to my motion to strike out, if it is not connected?

THE COURT: Yes.

Q (By Mr. Moll): On which side of the house is that rear porch; is it on the north side away from Charlevoix or near Charlevoix?

A Well, it is on the west side of the house, but it does not extend down flush with the house on the Charlevoix side.

Q The rear of the house is the west of the house?

A The west.

Q Of course the back porch, we know, is on the back; but is it on the side away from Charlevoix or near Charlevoix?

A It is on the side away from Charlevoix.

Q Well, then, to be a little more specific, the back porch is up in this section of the house, is that right (indicating on diagram)?

A Yes, sir.

Q This being Charlevoix. I forgot that you had not seen this before. This is Charlevoix running east and west, and Garland running north and south.

MR. DARROW: The garage does not show on there, does it?

MR. MOLL: No. But the house that I am talking about, was on the northwest corner.

MR. DARROW: Make a drawing of the garage there.

MR. MOLL: Before we do that, let us figure on the lot line here.

MR. DARROW: Where is that alley?

MR. TOMS: Here (indicating on diagram).

MR. DARROW: Is this the place you refer to?

A Yes, sir.

MR. DARROW: We can all remember that the sketch, as made by Mr. Toms, if it is not quite right, we will have it measured afterwards.

(Counsel marks on diagram)

MR. TOMS: With the consent of counsel for the defense, the diagram made can be explained as follows:

This square which has been drawn represents a store on the northeast corner of Garland and Charlevoix. The side of the store sets back flush with the building line, or the line of the house on Garland. The entrance to the store is at the corner of the building. The space between the west wall of the store, and Garland Avenue is vacant. Is that perfectly clear?

THE JURORS: Yes.

A JUROR: That is the curb there?

MR. TOMS: This is the curb here.

A JUROR: From the lot line on the front?

MR. TOMS: From the curb to the wall of the store is vacant.

MR. DARROW: Is this the sidewalk here?

MR. TOMS: No. The sidewalk is not indicated. The sidewalk would be right in there. This is the lot line.

MR. DARROW: And this is the house of Mr. Dove?

MR. TOMS: Yes.

MR. DARROW: The apartment, rather.

MR. TOMS: The garage in the rear of Dr. Sweet's house does not come quite flush to the alley, although it is indicated soon the diagram, but that is unimportant. It is almost the entire width of the lot, with the exception of a narrow passage-way, testified to be three and one-half or four feet wide, from the alley, leading on the north side of the garage into the Sweet lot, - a three-car garage.

MR. MOLL: I just suggest one change in the diagram, Mr. Toms, and that is that the Charlevoix wall of the garage is flush with the wall of the house. They apparently follow the building line on Charlevoix. That may or may not become important.

MR. DARROW: Make a diagram of it.

A JUROR: What is that other line there, something that runs to the lotline?

MR. DARROW: I suppose that is the lot line, isn't it?

MR. TOMS: The house is built on one lot, and a fraction of the next lot.

MR. MOLL: This is the original subdivision line.

MR. DARROW: The jurors asked what this line is running through the house.

MR. TOMS: The house is built on a lot and a fraction of another lot. As long as they understand that it is the lot line, all right.

MR. MOLL: There is another house in here that occupies two lots (indicating on diagram).

Q You testified that you saw two men on this rear porch at the time of the shooting; and the porch, you have located for us. Could you distinguish these men that you saw on the back porch, as to color?

A No, I could not.

Q Could you tell whether they were white or colored?

A No.

Q But you could distinguish these as two men?

A Yes, sir.

Q Now, I will call your attention to Exhibit No. 6, which has been received in evidence, and ask you if that is a fair representation of the back of that house, showing the back porch that you have described in your testimony?

A Yes, it is.

Q And it was on that back porch, which is open, that you saw two men at the time of the shooting?

A I did.

Q Now, did you tell us that you saw or heard the shooting?

A Well, I heard it and saw it too.

Q When you say you saw it, you mean you saw the fire from the guns?

A The fire flying from the guns, yes.

Q Could you tell us how many shots, if any, were fired from the back porch by those two men who were on the back porch?

MR. HAYES: Objected to as calling for a conclusion.

MR. MOLL: I said "if any."

MR. HAYES: Well, there is no evidence that two men were firing. That is my point. I object to the form of the question.

THE COURT: Well, he may state how many shots he heard fired. That is what you want, isn't it?

MR. MOLL: That is it, your Honor.

THE COURT: He may state that.

MR. HAYES: That is satisfactory.

A Well, about six or eight shots back there.

Q Six or eight shots fired from the back porch?

A Yes, sir.

Q Did you determine what they were fired with?

A No, I could not.

Q Did you determine the direction in which they were fired?

A Yes.

Q Well, in what direction were they fired?

A Some of them were fired from the north side of the porch, fired down in the direction of the street, between the two houses.

Q Which street, please?

A Garland Avenue.

Q You say some of the shots were fired in that direction?

A Yes, sir.

Q So that would be in this direction, would it not (indicating)?

A Yes, horizontally.

Q Going from the rear of the porch towards Garland Avenue, and between the Sweet house and the house adjoining it to the north?

A It would.

Q Were other shots fired in other directions?

A Yes, there were.

Q In which direction, please?

A In the direction of the alley, across Charlevoix, southwest from the Sweet home.

Q That would be over in this direction (indicating)?

A Yes.

Q According to the diagram, that would be across Charlevoix?

A Yes, sir.

Q Now, were there other shots fired except from the back porch so far as you know?

A Not as far as I know, no.

Q Did you hear other shots fired?

A I did.

Q And from what direction did those other shots come?

A They seemed to come from the direction of that home, around the otherside of the house.

Q What is that?

A They seemed to come from the direction of the Sweet home, on the other side of the house. I didn't see them.

MR. DARROW: I object to that statement.

THE COURT: Objection sustained.

MR. DARROW: And I ask that it be stricken out, -

THE COURT: It may be stricken from the record.

MR. DARROW: - if he did not hear it.

Q Not what "it seemed" but could you locate the sound of these other shots as coming from any particular place?

A Well, from the sound of them, they seemed to come from the Sweet home.

Q Now, what did you do, if anything, at the time of the shooting?

A I fired one shot.

Q Where were you at the time?

A Standing beside the garage, on the north side.

Q That would be the north side of the garage?

A Yes.

Q In which direction did you fire the shot?

A At the fellow on the porch that was firing.

Q Do you mean the fellow, or fellows?

MR. HAYES: That is objected to.

MR. MOLL: Well, there were two men.

MR. HAYES: That is objected to.

MR. MOLL: I will ask for a ruling on that.

MR. HAYES: The officer testified that he fired at a man who was doing the firing. There has not been any testimony that two men were firing.

MR. MOLL: The officer has testified -

MR. HAYES: Now, any suggestion along that line is hardly fair.

MR. MOLL: The officer has testified, if your Honor please, that there were two men on the back; and he had

testified that shots were fired in two different directions, several shots being fired towards Garland Avenue, to the north of the house, and other shots which were fired across Charlevoix.

THE COURT: Objection overruled. He may answer.

(The question was read by the Reporter)

MR. HAYES: That is objected to, if your Honor please.

I think the witness might be asked what he saw.

MR. MOLL: I am asking him what he did.

MR. HAYES: And without any suggestion.

MR. MOLL: Not what he saw.

MR. HAYES: He answered that, that he ~~xxx~~ shot at the man who fired.

THE COURT: I think the question is a proper one, and I think you may protect yourself from any confusion as to one or two, whether it was one or two, by cross examination.

MR. MOLL: Answer the question.

THE WITNESS: What was the question?

MR. MOLL: You just got through telling us that you fired a shot at the fellow on the back porch. I asked you if you meant the fellow or fellows?

A Well, I fired at one of them.

Q Did you fire at any particular person, or did you fire in the general direction of the back porch?

A I fired at that one in particular. It happened to be in my view, right there at that present time, that he was shooting.

Q Whereabouts on the porch was this particular man at whom you fired?

A He was right in front of the door.

MR. DARROW: Where did you see him, at the time?

Q (By Mr. Moll): Right in front of the door?

A Right in front of the door.

Q Well, then, according to this picture, or, using this picture to refresh your recollection, would you say that he was on the right or the left hand side of the porch, as you looked at it from the rear?

A On the right hand side of the porch.

Q In other words, the man at whom you fired was standing on the side of the back porch towards Charlevoix?

A He was.

Q Or, what portion of the back porch did the firing come from that you say was fired in the direction across Charlevoix?

A The south side of the porch.

Q The south side of the porch?

A Yes.

Q And the shots that went in the direction of Garlan to the north of the house were fired from what portion of the back porch?

A The north side.

Q The north?

A Yes.

Q So then you fired at the direction of the shots that were fired across Charlevoix, is that right?

A I did.

Q How many shots did you fire?

A One.

Q What happened then?

A They ducked and disappeared.

Q Where did they duck?

A They ducked down below that banister that goes around.

Q I see. And you fired no more shots?

A No.

Q Were you later on upon the back porch?

A I was several days later.

Q Did you see any bullet mark?

A I did.

Q Where was it please?

A Right over the door leading out on that back porch?.

Q Will you indicate it on that picture so that the jury may see the place?

A In about the first row of shingles. That is a shingle siding there; in the first row of shingles, right over the door.

Q Did you see any other marks in the vicinity of the back porch when you were up there a couple of days later?

A Well, I saw a bullet hole in the edge of the roof on the north side of the house.

Q On the north side of the house?

A Yes, sir.

Q According to this picture that is already in evidence, can you tell us whether or not there is some overhang to the roof? Of course, that shows you just a few feet

of the house (indicating on photograph).

A Yes, there is.

Q Is there the same overhang on the north side as there is on the south side of the house?

A There is.

Q How much of an overhang is there on that roof? I don't know whether that is a correct expression, but does the roof hang over the wall of the house? That is what I am getting at?

A Yes, it does.

Q And about how much is that overhang?

A A foot and a half, I guess.

Q A foot and a half?

A Yes.

Q You say there was a bullet hole in the overhang of the roof?

A There was.

Q Was that in the shingles?

A Through the shingles, and through the molding.

Q Could you trace the course of the bullet?

A You could.

Q I will show you Exhibit 21, which has been offered and received in evidence, and I will ask you if that shows the point of exit of that bullet, so to speak?

MR. HAYES: Objected to. I think the witness can testify to the physical condition, that there is a bullet hole there. But I do not believe he is qualified to testify

that it was a particular bullet that made that hole. That would be a matter principally for the jury to determine, and not for the witness to determine.

MR. MOLL: He has testified, if the court please, that he saw a bullet hole there, and he traced the course of the bullet, and he has shown where the point of interest was. I use that to distinguish that from this mark here (indicating). He said one mark was in the shingles, which, I take it, was on the roof proper; and this is a little below that.

MR. HAYES: It is not to show anything else, is it, than that there were two bullet holes? If that is the purpose of it, I have no objection.

MR. MOLL: That is all. We just wanted to show that there is a bullet hole there.

MR. HAYES: Allright, I did not understand it.

THE COURT: Read the question.

(The question was read by the Reporter)

MR. HAYES: That is my objection, "Of that bullet"?

THE COURT: "Of the bullet?"

MR. HAYES: Of a bullet.

MR. MOLL: Uh, well, we will make that change.

MR. HAYES: Will you make that change?

MR. MOLL: Yes.

MR. HAYES: All right, sir.

MR. MOLL: Because I don't know what "that bullet" refers to.

MR. TOMS: Did you find one or two bullet holes?

MR. MOLL: I am glad I do not have to spell it.

Q Now, answer the question, will you, officer?

(The question was read by the reporter)

A Yes, that is the point of exit, in my judgment.

MR. DARROW: Of a bullet? That was the question, wasn't it?

MR. MOLL: Yes.

MR. DARROW: I don't know whether there is any question about "his bullet" or not.

Q (By Mr. Moll): As you stood on the back porch, how high was the bullet hole from the floor of the porch, or we will say the roof of the porch, as you stood on it, if you remember?

MR. DARROW: Well, now, you say how high was the roof from the floor?

MR. MOLL: No, I did not say that.

MR. DARROW: I think you have got it mixed a little.

MR. MOLL: Read the question.

(The question was read by the reporter)

MR. MOLL: Do you understand that?

A Well, now, I don't understand which bullet you mean.

Q ~~xxxx~~ + I am talking about a bullet hole, here; this bullet here (indicating).

MR. DARROW: There are two, aren't there?

A There are two bullet holes.

Q You say you saw the point of entrance, and you saw the point of exit. Now, was that one or two bullet holes?

A There was one there.

Q All right. How far, how high up from the roof of the porch was that bullet hole, if you know?

A Well, I don't know exactly.

Q All right. Did you observe it at all, with reference to the height above the floor of the porch?

A Well, I judge about four foot.

Q Now, is that based on your observation?

A Yes, sir.

Q And your recollection?

A Yes, sir.

(Counsel confer off the record)

THE COURT: All right, proceed, gentlemen.

5 Q I will ask you whether or not you ever examined the side of the house adjoining the Sweet house to the north?

A I have.

Q I will ask you whether or not you discovered any bullet holes in the side of that house?

A I did.

Q Whereabouts?

A Four foot from the ground, on the side of the house, to the south side.

Q About four feet from the ground?

A Yes.

Q Now, where was it with reference to the depth of the house; was it towards the front or the middle or the rear?

A Well, it was about two thirds of the distance from the rear of the house towards the front.

Q Now, after the shooting on the night of the 9th, did you

go into the house?

A I did not.

Q You did not go in at all?

A No, sir.

Q You did not assist in the search of the house, or the search of the prisoners?

A I did not.

MR. MOLL: Cross examine.

MR. DARROW: Officer Gill -

MR. MOLL: I wonder if I may interrupt you, before you start your cross examination?

MR. DARROW: Yes.

Q (By Mr. Moll): Now, your attention was attracted to this shooting. You could identify that as coming from the back porch, is that right?

A I can.

Q And you also identified two men, or you could make out two men on the back porch?

A Yes, sir.

Q Did you see whether both of those men who were on the back porch shot?

A They did, yes.

Q And they both shot? And then -

MR. HAYES: Just a minute, what is the answer?

A Yes.

MR. MOLL: He said yes.

Q And, as I understood your testimony formerly, one was on one side of the porch towards Charlevoix, shooting in

the direction towards Charlevoix Avenue, while the other one was on the north side of the porch, shooting in the direction of Garland Avenue, between the houses, is that correct?

A They were.

MR. MOLL: That is all.

CROSS EXAMINATION

BY MR. DARROW:

Q Now, Officer, if you will just look at this a minute, - whereabouts at that garage did you stand?

A At what time?

Q When you shot?

A At the east side.

Q Come over and point it out for me.

A Standing right at this point, right here (indicating on map).

Q What were you standing on there?

A Standing on the cement sidewalk.

Q You were standing down on the sidewalk?

A Yes.

Q And these two men that you saw on the porch, they could not have been very close together, I take it?

A No, sir.

Q That porch, as you understand it, runs along the whole width here, does it not?

A (No response).

MR. DARROW: Isn't that the evidence here?

MR. TOMS: No.

MR DARROW: Well, I want it right. It comes pretty close to it, I think.

Q This you say is a picture of it?

A Yes.

Q The porch is up here?

A Yes.

Q Now, on this picture, which is Exhibit 6, will you point out about where the two men were?

A One was right here by the door, and the other one was on the north side there.

Q Over here somewhere?

A Yes, over next to the roof.

Q Right about there, is that right?

A Well, not at this point. He was next to the roof, about that distance from the south side of the porch.

Q About how far apart were they?

A 15 feet I imagine.

Q 16 feet?

A 15.

Q One of the men were stationed so that you think he could shoot into Charlevoix, and did, is that right?

A Yes, sir.

Q And the other man, some 12 or 15 feet away, was stationed where he could shoot in that alley-way between the Sweet house and the house north, over across the road, is that right?

A Across Charlevoix, yes, sir.

Q No, that would be across Garland?

A No, he was not.

Q How is that?

A He was not.

Q Well, now, let us get it straightened out, Officer.

MR. MOLL: I think a repetition, if you will pardon the suggestion - a repetition of the last two questions and answers, that the officer will have it straight in his mind.

MR. DARROW: I know, we will have it straight. I won't try to confuse it. I want it straight.

Q You saw shots fired in two places, is that right?

A I did.

Q And that, you determined by the flash?

A Yes, sir.

Q You assumed the flash was from a gun, because you heard noises made the same time that there was shooting; that is probably right, isn't it; is that correct, officer?

A I saw the flash, and heard it.

Q You saw the flash and you heard the noise?

A Yes.

Q And you could tell by the flash which way it was going?

A Yes, sir, about.

Q The general direction, at least?

A Yes.

Q And one of them, you thought was towards down between the two houses, the Sweet house and the next one north, towards Garland Avenue?

A Yes, sir.

Q And the other was towards Charlevoix, that is right, isn't it?

A Yes, towards Charlevoix.

Q And two men were some twelve feet apart, so that you could distinguish between them?

A Yes.

Q Well, now, I guess we have got it. And you shot at the man that was so stationed, that he could shoot towards Charlevoix?

A I did.

Q You shot just once?

A Just once.

Q How long had you been where you were when you shot, about how long?

A You mean on duty there, or at the place where I was standing, at that time?

Q I mean the place from which you shot?

A I had been there about three minutes.

Q And before that time, you were on duty where?

A Before that time I was on duty right around the rear of the garage, and at the entrance of that passage-way through Sweet's back yard.

Q You had been in that general vicinity since three o'clock?

A I had been there about probably ten minutes.

Q Where were you before that?

A I was on the north side of Charlevoix, from Garland to the alley.

- Q The north side of Charlevoix, from Garland to the alley?
- A Yes, sir.
- Q That had been your general position since you came down there?
- A It had.
- Q You came down about three o'clock?
- A Yes, sir.
- Q You did not go into the house?
- A I did not.
- Q Where did you go?
- A I did not go anywhere, only -
- Q After it was over with, you went home?
- A I remained there.
- Q You remained there, in charge. You stayed there all night did you, that night?
- A I stayed there until 11 o'clock when I was relieved.
- Q And then you went away?
- A I did.
- Q /Any other officers in the rear besides you during the afternoon?
- A /There was.
- Q Was there at the time of the shooting?
- A No, sir.

MR. DARROW: That is all.

RE DIRECT EXAMINATION

BY MR. MOLL:

Q Do you remember what calibre of gun you fired with that evening?

A I do.

Q What calibre?

A 38.

Q Do you remember what kind of a bullet it was; a lead bullet?

A A A lead bullet, yes.

Q Just prior to the shooting, did you see anyone enter or leave the Sweet house from the rear?

A No sir, I did not.

Q Did you see any persons in the rear of the house or about the house?

A No sir.

Q Had you seen any persons in the alley, in the rear of the house, before the shooting?

A In the alley, yes, there was one fellow came down, right about the time, about the time the shooting started.

Q Well, that was just before you moved in? Am I right?

A Yes sir.

Q That was before you went into the yard, was it?

A Well, I dont know whether it would be the yard; I guess it would be the yard; it is a little entrance that goes alongside the garage.

Q You said, a short time ago, that you had moved in to the entrance or into the yard, and stood at the spot where you later fired, for about three minutes before you did fire.

A Yes.

Q Well, did you see this person in the alley while you were in the alley, or after you had moved in to the yard?

A I saw him there after I had moved in to the yard, into the edge of the yard.

Q Who was this person, do you know?

A I didn't know him.

Q Well, was he a white man or a colored man?

A He was a white fellow.

Q Was he old or young?

A An old fellow.

Q Did you have any conversation with him?

A No sir, I did not.
behind

Q Did he step ~~in~~ the house?

A He did not.

Q Or behind the garage?

A No.

Q He just passed through the alley?

A Just passed through.

Q In which direction was he going?

A He was going south, towards Charlevoix.

Q Towards Charlevoix?

A Yes sir.

Q You had no reason to stop him or question him, is that right?

MR DARROW: Just a minute. If he had any reason to,--
I object to the question.

THE COURT: Objection sustained.

MR MOLL: I withdraw it.

Q He did not stop?

A He did not.

Q Did he say anything to you?

A No sir.

Q Did you see any other persons in the rear of the lot or on the Charlevoix side, while you were on duty there, immediately before the shooting?

MR DARRON: Just a minute; will you read that question?

(Question read by the reporter)

A No, I did not.

MR MOLL: That is all.

MR DARRON: Read that question again, please?

(The question was again read by the reporter)

RE CROSS EXAMINATION

BY MR DARRON:

Q Do you mean after you had taken your station at this place, you did not see anybody, is that it?

A No sir, except that one man that I spoke of.

Q After you had taken your station, from the place you shot, you did not see anybody else except the one man you speak of?

A No sir.

Q How long were you stationed there?

A I was stationed there about ten minutes, --about ten minutes after eight.

Q What were you doing, watching?

A I was.

Q How much of Charlevoix avenue could you see from where you were?

- A Just the alley part.
- Q Of Charlevoix?
- A Just the alley entrance.
- Q Did an automobile drive into that alley while you were there?
- A Not that I know of.
- Q I mean while you were stationed there?
- A Not that I know of.
- Q And how long was it that you saw this man in the alley, this elderly man that you mentioned, how long was that before the shooting?
- A It was not before the shooting; it was at the time of the shooting.
- Q While they were shooting?
- A Yes sir.
- Q How long did the shooting last?
- A I judge about ten seconds, ten or fifteen seconds.
- Q During that ten seconds, you saw him?
- A Yes sir.

MR DARROW: That is all.

RE RE DIRECT EXAMINATION

BY MR. MOLL:

- Q You dont remember of any cars in the alley while you were on duty from 8:10 on, that evening?
- A I do not.
- Q Do you remember where the entrance to the Sweet garage was; was it from the alley, -- or the entrances?
- A It is, yes sir.

Q Did you see anyone enter or leave that garage while you were in the alley?

A I did not.

Q After 8:10?

A I did not.

Q Do you know whether or not, when you went on duty in the alley, there were any cars in the garage?

A I do not.

Q You did not examine the garage to see whether there were any cars there?

A I did not.

Q Were the doors closed leading to the alley?

A They were.

MR MOLL: That is all.

MR DARROW: Just one more question:

Q (By Mr Darrow) How long have you been on the force?

A Five months and ten days.

MR DARROW: That is all.

THE COURT: How long have you lived in Detroit, officer?

A Close to two years now.

THE COURT: Where did you come from?

A Tennessee.

MR DARROW: I remember the place,--a good place. That is all.

MR MOLL: That is all.

(Witness excused)

MR TOMS: Does your Honor wish to proceed? Shall I call another witness?

MR DARROW: I did have an appointment to see someone in connection with this case at this time. I did not suppose we would run beyond five o'clock.

THE COURT: Well, I intend to ~~work~~ hold court as long each day as possible. I do not want to be unreasonable about it. This case is going to be drawn out, and I want to get as much done each day as possible. So that you can always plan on being here at least until five o'clock, and we may some days run a little longer. We will adjourn court now until tomorrow morning at 9:30.

(Whereupon court adjourned until the next day,
Saturday, November 7, 1925, at 9:30 o'clock a.m.)

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STATE OF MICHIGAN
IN THE RECORDERS COURT FOR THE CITY OF DETROIT

PEOPLE OF THE STATE OF MICHIGAN }

-vs-

OSSIAN SWEET, et al. }

Before Hon. Frank Murphy, Judge, and a Jury?

SESSION OF SATURDAY, NOVEMBER 7, 1925.

ARTHUR WEINBERG
2334 E 68TH ST
CHICAGO 49 ILL

VOLUME III.

331-332 good aside

360-363 can be used as testimony

395 possible
409 will serve as direct

I N D E X

	Direct	Gross	Redirect	Recross
Edward Wettlaufer	330	331	363	364
Otto H. Eberhardt	364	372	394	395
Russell C. Burns	396	410	422	423
EberA. Draper	424	436		

- - -

Saturday, Nov. 7, 1925.

9:30 o'clock A.M.

E D W A R D W E T T L A U F E R, called as a witness on behalf of the People, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q What is your name, please?

A Edward Wettlaufer.

Q Where do you live?

A 3032 Bewick Avenue.

MR. DARROW: What is his name?

A MR. TOMS: Edward Wettlaufer.

A JUROR: I can't hear him.

Q Were you living there on the 9th of September, this year?

A Yes, sir.

Q Were you home on the evening of the 9th of September?

A Yes, sir.

Q At least, were you in that neighborhood?

A Yes, sir.

Q How far do you live from Mr. Dove's house, that is, 2912 and 14 Garland?

A Why, it must be about a block and a half - large block and a half.

Q Were you on Garland Avenue about - between 8 and 8:30 on the night of September 9th?

A Well, it was somewhere along about that time.

Q Where were you?

A I was by the grocery store.

Q That is, on the northeast corner of Garland and Charlevoix?

A Yes.

Q What had you been doing? What was your purpose in being there?

A Well, I went to the grocery store to get some stuff, and I saw several policemen there, you know and I stopped to inquire what was the trouble.

Q Where did you stop?

A Well, I went over - when I got near the grocery store, I went over and there was a few people standing on Garland, and I walked over to see what was the trouble.

Q Over where, where on Garland?

A Well, back of this grocery store.

Q Back of the grocery store. That is, north of it upon Garland Avenue?

A Where the man was shot.

Q Did you see the man shot?

A Well, I seen him fall. I seen him fall.

Q How far away from him were you when you saw him fall?

A Why, about - oh, I should judge about 15 feet, 20 feet.

Q Did you know him?

A No.

Q Had you talked to him before he fell?

A No, no.

Q What did you hear or see just before he fell?

A Well, I see a few people there and policemen.

Q Did you hear any shots?

A Before? Oh, yes, before that, yes.

Q How many, as near as you can estimate?

A Well, there was - well, somewhere - maybe 15 to 25 in the first volley. In the second volley, there was just a few.

Q Were there two volleys fired then?

A There was, yes.

Q How much time between them?

A Well, I couldn't judge that. I don't just remember.

Q Matter of seconds or minutes?

A Well, after the first volley was fired, I couldn't think very well - I didn't - I don't remember just what time expired.

Q You haven't any recollection of how much time passed between the first and second volleys?

A No.

Q Were you standing still when the shots were fired?

A No.

Q Do you remember where you were standing?

A Yes.

Q Where?

A Why, just the house the other side of where the man was shot.

Q The house to the north of that?

A To the south of that.

Q There isn't any house to the south of it, is there?

A I think there is. There is that house, and there is another house.

Q You were between the place where the man was shot and Charlevoix Avenue, were you?

A No, that is where I was first.

Q When the shots were fired?

A When the shots were fired, I was north of that house.

Q That is what I said. You were north of Charlevoix, north of the house where Briener was standing?

A Yes, north of the house.

Q Was anyone with you?

A No.

Q I mean, had anyone gone to the store with you?

A No.

Q Did you have anything in your hands?

A No.

Q Did you see the spurt of flame from any -

A No.

Q - shots fired? In what direction were you facing when the shots were fired?

A Why, I was facing - - as near as I can remember, I was facing towards the other side of the street, but not - - I didn't look at the house.

Q That is, you were facing towards the west side of the street?

A Towards the west side, yes.

Q You weren't looking at the house on the corner?

A No.

Q Did you hear any other bullet - did you hear any bullet strike?

A No.

Q Were you on the sidewalk?

A No, I was on the lawn of the -

Q You were on the lawn?

A Yes.

Q That is, inside of the sidewalk?

A Inside, yes.

Q How many people, as nearly as you can estimate, were there in front of the house where the man fell?

A Oh, at the time that the shot was fired?

Q Yes.

A Well, it seemed - - figuring the children and the women and the men, probably, oh, I don't know, maybe 15 people altogether.

Q Together 15 people. That is your best judgment?

A MR. DARROW: How many?

MR. TOMS: 15.

A Maybe 15, maybe more, maybe less.

Q Keep your voice up, Mr. Wettlaufer. After the man fell, as you have testified to, what did you do?

A Well, the policeman came along - that is, several policemen and chased the people back still further. We moved back a bit and then there was - the people started to holler about a man being shot, you know, and went back there, and one of the officers took a flashlight out and flashed it on this man, and there was a few of us went back and

looked at him, and then they took him away in the automobile.

Q Was he dead then?

A Well, he seemed to be. Of course, I don't know whether he was dead or not. He acted -- he was unconscious anyway.

Q Did you pay any particular attention at any time while you were on Garland Avenue to the Sweet house on the northwest corner?

A What is that?

MR. TOMS: Read it.

(The question was repeated by the Reporter).

Q Did you look at it at all?

A Oh, same as I would walking by anything.

Q Well -

A Didn't pay no attention to it.

Q Can you say whether or not the lights were on or off?

A I couldn't even say that, no.

Q Did you see any people as you went from the grocery store up Garland Avenue, did you see any people on the other side, that is, the west side of Garland Avenue?

A Why, I didn't see - no; there may have been one or two people walking along, but very few.

Q Was there any crowd over there?

A No.

Q You did notice police officers?

A Yes.

Q Where did you see them?

A Well, they were along by the house on Charlevoix and Garland, surrounding the house.

Q How, how much time - I will change the form of that.

How long a time were you on Garland Avenue at the grocery walking up to the place where the man fell, to the best of your recollection?

A Oh, I couldn't - - maybe 15 minutes.

Q Maybe about 15 minutes?

A It might have been that. I couldn't say, but that is -

Q Allright, that is your best judgment anyway, is it? Now, during that time, did you hear any disturbance?

A No.

Q Did you see any missiles thrown towards the Sweet house?

A No.

Q You know what I mean by the Sweet house, do you?

A Yes.

Q Did you hear any shouting or yelling?

A No, not until the man was shot.

Q Not until after the shooting?

A When the man was shot, he hollered.

Q Did you hear any sound of broken glass?

A Yes, I heard; I heard something sounded like glass breaking.

Q When was that?

A Well, while I was standing there.

Q Where did the noise come from, which direction?

A Well, I don't know just where it came from. I know it sounded like broken glass; that might have been the house - and it might not.

Q You don't know what it was?

A No.

Q You don't even know from which direction the noise came?

A No.

MR. DARROW: Well, leading.

MR. TOMS: He has already said that.

Q And how long after you heard that noise did the shooting start?

A Well, - -

Q Or was the broken glass before or after the shooting?

A Well, it was before.

Q Before - - that was before the shooting. Where were you when you heard it?

A On Garland, in front of this house.

Q Were you standing still?

A Well, I don't remember whether I was standing still or walking around. I was over there anyway.

Q Had you got up as far as the place where the man was shot?

A Not then, no.

Q You hadn't got up that far?

A Well, that is where I was then. I was there then when the window was - or the glass, or whatever it was, that was broken. When they started to fire the shot, why, we - - policemen drove us up further.

Q That is, north on Garland?

A That is, north, yes.

Q Was this group that you approached, that is, the group of people where the man was shot, was that the only group of more than five or six people that you saw?

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MR. DARROW: Just a minute. I think I shall object to that as leading. Ordinarily I don't care. All right.

MR. TOMS: I presume you are right about that.

Q Did you see any other people on the street there beside those in front of the -- we will call it the Dove house -- that is the house where the man was standing, wasn't it?

A Well, there was people up the street walking along, on the east side of Garland, and there was a few people on the -- that I noticed on the south side of Charlevoix.

Q That is, on the side away from the Sweet residence?

A Yes.

Q How many would you say? How many people that you could see?

A Well -- oh, I don't know, probably -- scattered out, probably including the policemen, there were probably -- looked to be about forty people.

Q Including the officers?

A Including the officers.

Q Was there any traffic jam there, automobiles?

A No -- that is before the trouble?

Q Before the shooting. Did you see anyone enter or leave the Sweet house while you were there?

A No.

Q Did you see anyone who was armed?

A No, no.

Q Did you see anyone carrying clubs, or stones?

A No.

Q Did you notice any officers, police officers on the west side of Garland Avenue, as you walked up from the corner?

A Yes.

Q I didn't hear your answer?

A Yes, sir.

Q You did. Can you tell me how many?

A Well, I think there was two. There may have been more.

Q Were those the same officers who moved you back when the man was shot, if you know?

A Oh, we were on the east side. There were other officers over on the east side too.

Q Well, you were on the east side?

A We were on the east side.

Q Did I ask you about the west? My mistake.

MR. DARROW: You asked about the west.

Q I mean the side that you were on? Were there officers on that side of the street?

A Yes, sir.

Q How many, do you know?

A Well, there was three that I know of.

Q Three that you know of?

A Yes.

Q Did you hear them saying anything to the citizens on the street?

A Well, they said "get back, get back."

Q I mean, before the shooting?

A Oh, no, just - - if there were a couple of people stopped to talk, why, they told them to keep moving.

Q Keep moving?

A Yes.

Q And after the man was shot?

A Yes.

Q Moved you up the street further?

A Yes.

Q What is your business, Mr. Wettlaufer?

A I have a billiard room, 507 Woodward Avenue.

Q 507 Woodward?

A Yes.

Q You don't know the man who was shot?

A No.

Q Did you know why the officers were there on Garland Avenue?

A No.

Q Do you know Dr. Sweet?

A No.

Q Did you know of his moving into that neighborhood?

A Well, I had heard something about it, about two months before that.

Q Did you know that he was moving in on the night of the shooting, or the day before?

A No.

Q Then when you went over to the grocery store, you didn't - a little leading -

MR. DARROW: Just a little bit. I don't -

Q When you went over to the grocery store, had you heard of any disturbance on Garland Avenue that night?

A No.

Q Did you expect any?

A No.

Q Were you expecting to see any?

A No.

Q When you did get over there, did you know why the officers were there, hear the police were there?

A Well, no, I didn't.

Q In which direction was Mr. Briener, the man who was shot, standing when he fell, which way was he facing?

A Why, I don't know, I don't know, I didn't pay any attention to him only when he hollered that he was shot.

Q You hadn't noticed him more than anybody else before that?

A No.

Q Cross examination, please.

CROSS EXAMINATION

BY MR. DARROW:

Q How soon after you heard that glass break, did the shooting begin?

A Why, -- oh, it seemed- maybe, oh, probably a minute or two.

Q Right away, wasn't it?

A Well, I wouldn't say right away, but it -

Q A minute or two?

A A minute or two, yes.

Q Starting right now, will you tell me how soon it was?

A What is that?

Q Time yourself for a minute.

A Yes.

Q Now, starting, when I tell you to start, will you just tell me when the minute is up in your judgment. Got to get

this where I will know. Now, begin. Tell me when a minute is.

A (After a lapse of aperiod). Right now.

Q Now, did you watch it?

MR. TOMS: No, is that a Chicago watch, Chicago time?

MR. DARROW: Yes.

MR. TOMS: I move that it be stricken out.

MR.HAYES: 23 seconds.

Q Why, you didn't use a watch that night, did you?

A No, no; never carry one.

Q Either Chicago or any other?

MR.HAYES: I want on the record it was 23 seconds.

MR. DARROW: I don't believe I have a right to it.

MR.HAYES: Won't they concede it?

MR. TOMS: No, he does not attempt to say it was exactly.

Q No, uncertain isn't it. We do know that. You run a billiard hall, do you?

A Yes, sir.

Q How long have you been doing that?

A Oh, for - -

Q Oh, about how long?

A About ten -

Q Guess within ten years.

MR. TOMS: He answered, he said ten years - about ten years.

A Ten years.

Q Allright.

MR. TOMS: Yes.

Q About ten years out there in that place, Woodward Avenue?

A No, three years there.

Q What did you do before that?

A I was at 336 Congress Street, east.

Q That is, running a billiard room?

A Yes.

Q Before you went into the billiard business, what did you do?

A I was a cigar manufacturer.

Q Detroit your home?

A Yes, sir.

Q Born here?

A Yes, sir.

Q Now, where is Woodward Avenue with reference to this place?

A Congress and Woodward.

Q What?

A Congress and Woodward, on the corner.

Q You see I am a stranger here, strange land. About how far is it from this place, the corner of Garland and Charlevoix, to Woodward?

A That is downtown.

Q Downtown?

A Yes, yes, it is -

Q Where do you live?

A 3032 Bewick Avenue.

Q Whereabouts?

A 3032 Bewick Avenue.

Q That, I believe, you said is two blocks from where this took place?

A A block and a half.

Q How is that?

A A block and a half, about.

4 Q Well, block east? East? One block, you go one block south?

A That is half a block south, from my place and to - Charle-voix and then a block east over to grocery store.

Q A block east or a block west of the grocery store?

A A block east.

Q All right.

MR. TOMS: East of the grocery store.

Q So you are a block and a half away. How long have you lived there?

A Since 1914.

Q Own your home?

A Yes.

Q Were you in the habit of trading at that grocery store?

A Yes.

Q You have a family, have you?

A Yes, sir.

Q What family?

A Two boys and a girl, my wife and myself.

Q You had heard that Dr. Sweet was coming into that neighborhood?

A Yes. I had heard that some colored man was coming.

Q Yes. That was a matter of general discussion around there, wasn't it?

A At that time, yes, there was.

MR. TOMS: What do you mean, "at that time?"

A Well, in the first place, there was two months before that.

Q Let me see if I get you right. If I don't, correct me.

You had heard some two months before that a colored man was coming there, is that right?

A That is two months before the affair occurred.

Q Two months, - what?

A Two months before the affair occurred, I had heard that.

Q That had been a subject of general discussion up to the time that he came?

A No.

Q What?

A No, not up to the time he came. It was at that time a discussion, but after that, there was nothing more said.

Q You mean at the time you heard that he was coming, it was a matter of general discussion?

A Yes.

Q But it had sort of quieted down -

A Yes.

Q - around this time? Did you hear when he moved in?

A No, not until after, he had moved in.

Q Well, do you know what day he moved in?

A No, I couldn't say the day.

Q Had you heard that he had moved in before you went down to the grocery store?

A No.

MR. TOMS: Mr. Wettlaufer, keep your voice up, please.

These are the men that want to hear you, over here
(indicating jury).

MR. DARROW: It doesn't matter so much about us.
Just make them hear over there.

MR. TOMS: That is about the long and short of it.

Q Do you happen to know what you did there at the grocery store, if anything?

A Why, I didn't buy anything.

Q You went down to buy something?

A Yes.

Q But didn't buy?

A When I see the policemen there, and a few people there, I wondered what was going on.

Q When you saw the policeman, you forgot what you wanted to buy, did you?

A Well, yes, to a certain degree, yes.

Q Douyou remember now what you were going to buy?

A Yes.

Q What was it?

A Bread, bananas and some cream and milk.

Q You forgot about bread and milk?

A I forgot the whole works.

Q You didn't get excited, did you?

A Why, yes, after the shooting, I certainly got-

Q You didn't get excited before that, did you?

A No.

Q Just as cool as you are now?

A Well, I am not very cool now.

Q Well, you act cool. I don't want you to be afraid of me, anyway. But you went in the grocery store, didn't you?

A No.

Q You knew when you got to the grocery store, didn't you?

A What is that?

Q You knew when you got to the grocery store?

A Oh, yes, sure.

Q I see.

A Yes.

Q But you forgot your going after bread and milk, did you?

A Well, I didn't think of it at the time because I seen the policemen, you know, and several people there, I thought I would get there later on.

Q You had walked less than a block and a half?

A Yes.

Q Your wife, I suppose, told you to go out to get some bread and milk?

A Yes, sir.

Q You wanted it for breakfast the next morning; never have got it since, have you?

A Oh, yes, yes.

Q Well, did you notice whether there were any automobiles around the grocery, parked there?

A Well, not at the time.

Q You didn't notice?

A When I first came, I didn't ^{see} notice any.

Q Now, I don't want to misquote you. Do you mean that you didn't notice, or that there weren't any?

A Well, to my knowledge I don't remember of seeing any.

Q There might have been parked vans with policemen?

A Oh, no, After the crowd came - after the shots, then there was a lot of them.

Q You are quite an excitable man, aren't you?

A No, not very.

Q Would you say there were no automobiles at all parked in front of the grocery when you went up there?

A Oh, I wouldn't say there was not, no.

Q Were there automobiles parked as you went along up the street or don't you know?

A Well, I really - - I didn't pay any attention no.

Q You didn't pay much attention to anything at that time, did you? And did you have any reason for going up the street?

A To the grocery store?

Q No, after - - beyond the grocery store, north?

A Oh, well, there was a few people there, and I thought I would go over there and see what the trouble was, and maybe I thought I would know somebody that was there, but I did not, - see.

Q You thought you would go and see what the trouble was?

A Yes.

Q And the people were congregated at the - and there were people just next door to this store?

A Yes, back in the rear of the grocery.

Q When you say "in the rear", you mean on -

A On -

Q You call Charlevoix the front, which it is, that is right.

isn't it?

A Yes.

Q And along Garland is a vacant space, running the same as the store?

A Yes.

Q Right back of that vacant space, yes. Did you walk fast or slow, or don't you know?

A I always walk slow.

Q Well, I think probably that is right.

MR. TOMS: He can't be so excitable.

MR. DARROW: No, I don't think so.

Q And did you see anybody there that you knew?

A No; no, I didn't see anybody.

Q You had lived, you say, three years around the corner there? No, 1914 you got there -?

A 11 years.

Q You lived there 11 years within a block and a half. Did you see anybody anywhere around there that you knew?

A Not at that time, no.

Q Did you that evening?

A Oh, after I started for home - after it was all over, I ran into quite a few people that I knew, but I didn't talk to them.

Q But you didn't see anybody before?

A No.

Q Now, these people, you say there were in the neighborhood of 15 in front - in the yard of the building where you went, is that right?

A That is what it seems to me, about that, yes.

Q You wouldn't want to stake your life on more or less?

A No.

Q Or anybody else's, would you?

A No.

Q You wouldn't want to stake your life on anybody else's life or liberty on there being more or less than that, would you? You don't feel absolutely certain about it, I suppose?

A No.

MR. HAYES: He said no.

MR. DARROW: If you would just speak so the reporter here can hear what you say.

Q Well, now, were there any people on the porch of the house back of the yard? Do you know whose house that is? I picked that out. Let me get it so that you won't be confused. Do you know whose house that is next to the store, or who lives there or what kind of a house it was?

A I know what kind of a house it was.

Q Two family flat?

A Two family flat. I don't know who lives there, or don't know the people.

Q All right. You looked the bunch over, people there, and you saw nobody that you knew?

A No.

Q Now, you say - do you say that in the yard in front of the house, there was some 15 people?

A Yes.

Q And were they doing anything?

A No, they were standing there. The policemen chased ~~me~~

Q What?

A The policemen had chased them off the sidewalk, and they went up on the lawn.

Q You saw the policeman chase them off the sidewalk?

A Well, that is how I got over there.

Q Did he chase you too?

A Yes.

Q Did you run fast?

A No, sir.

Q Did you notice there was a porch on this two-flat building?

A Yes.

Q Was there anybody there?

A Well, there was - I don't know before the shooting. I don't know whether there was anybody there or not, but after the shooting there was a woman with a baby that was hollering.

Q You don't know whether there was anybody sitting on the porch at the time you went up there, or not?

A No.

Q These people that you speak of were standing in front?

A Yes.

Q Well, now, you said there were many women and children, didn't you? How many women were there?

A Oh, I couldn't say.

Q How many children?

A Only that I noticed they were mostly children.

Q Well, how many children did you see?

A Oh, probably six or seven, eight.

Q How big were these children?

A Nine - well, they were various sizes.

Q Pretty near any size you wanted to get?

A Well, there was not every size, but different sizes.

Q They were there in front, were they?

A Yes.

Q How many women did you see there?

A Seemed to be just a few.

Q There were more boys, I suppose than women?

A Yes, boys and girls.

Q Were there girls too? How many girls did you see?

A Just a couple of them.

Q Did you look at them?

A Well, in a general way, you know.

Q Just in a general way; all right. You needn't answer that anyway. Could you tell anything about the ages of these girls?

A Oh, twelve.

Q Or didn't you look that close?

A Ten; well, they were just children that is all. I didn't pay any attention to the -

Q What were they doing?

A Just standing there talking.

Q Just standing there, talking. Did the police shove the children back?

A After the - yes.

Q What?

A Yes. Chased everybody back.

Q Did the police say anything?

A He said, "Get back, get back, keep moving."

Q Did he tell them why to get back?

A No.

Q Was this man who fell, in the bunch with the rest?

A No.

Q What?

A No.

Q Well, now, you went up there from the store to see what was going on, that is right, isn't it? Up to that time you had not spoken to anybody about it?

A No, no.

Q And you also went up because the police chased you back?

A Well, after that the police chased us back further, yes.

Q When you got back further, where were you?

A Then I was back in front of the house where the -- I was north of the house where the shot was -- shot this man.

Q That would be the next house to the flat building?

A Yes, that would be the next house, yes.

MR. TOMS: 2913?

Q Do you know how many men were shoved back?

A Just a couple of them, I guess.

Q What?

A As far as I could observe, remember, just a couple of them there.

Q Policemen shoved back a couple of men?

A That is, he was in the crowd with --

Q What?

A They were in the crowd with the men and women and the children were alltogether there, that is -

Q What did these men look like?

A Oh, I dn't know. I don't remember - - pay any attention what they lookedlike.

Q You weren't observing very closely, were you?

A No, I wasn't observing very closely.

Q Well, then, where were you when youheard windows smash, or theglass break?

A Over in front of that house.

Q In front of the house where the man was killed, or in front of the flat building?

A In front of the flat.

Q In front of the flat building, Had you - - still walking, were you, or don't you remember?

A No, I think I was standing there.

Q Which way were you looking?

A Well, I don't justparticularly remember.

Q Don't know which way you were looking?

A Looking over -

Q What?

A I probably looked all around.

Q Just turning around?

A No, but my neck was, probably.

MR. TOMS: He said his neck was, all right.

Q After the windows smashed?

MR. TOMS: Wait a minute.

Q After you heard the glass?

MR. TOMS: That is better.

Q Of course, there wasn't any crash, but you heard it anyway, didn't you, heard the glass break?

A Yes.

Q After that heard the shooting. Now, where were you at the time of the shooting?

A I was in front of this house.

Q In front of the - that is, this house just beyond the flat?

A Yes.

Q How close did you - were you to this man who was shot?

A Oh, as far as from (indicating).

Q As far as you are from me?

A About that.

MR. TOMS: Let us that distance on the record.

MR. DARROW: About ten feet.

MR. TOMS: About ten feet.

Q Were you - was he standing up?

A Well, yes, he was standing up.

Q Standing still?

A Well, he was - not exactly still, no.

Q Talking to anybody?

A Well, I didn't see him until he shouted that he was shot, you know. When he shouted that he was shot, that drew my attention to him.

Q You didn't see him until after he was shot?

A No.

Q Did you see him fall? That is, right at that time?

A Yes, I seen him fall.

Q Was anybody immediately around him?

A No.

Q How many people were up there in front of this house, if you know?

A Well, there was, as I say, somewheres around -

MR. TOMS: I can't hear you, Mr. Wettlaufer. Keep your voice up.

A Somewheres around 15, 20, somewheres in that neighborhood. I don't know.

Q I am speaking of the house, the flat building?

A About the same amount of people in each case, because there was some fifty, you know.

Q Was the people still over there?

A There were people on the sidewalk walking to and fro.

Q Were the people - did you see people?

A Yes.

Q Were there automobiles parked along there?

A I didn't notice any.

Q Would you say there wasn't?

A Well, as far as I can remember, I don't think there was any.

Q Was there an automobile parked right in front of the flat building?

A Well, I didn't see that.

Q If it was there, you didn't notice it?

A No.

Q You wouldn't have noticed whether an automobile was parked, or not, would you?

MR. TOMS: Wait a minute.

MR. DARROW: Well -

MR. TOMS: Do you insist on an answer. "You wouldn't ask have noticed", it calls for a conclusion -/whether he saw any automobile.

Q No; do you think you would have noticed whether an automobile was parked along there or not?

A No.

Q Or how many were parked?

MR. TOMS: The answer is no. Don't shake your head, because that doesn't get on paper, you know.

A No.

Q To change the subject for just a minute. What day of the week was this?

A I couldn't tell you.

Q You don't know what day?

MR. TOMS: Wednesday.

Q This was Wednesday. Do you run your pool room nights?

A What is that?

Q Do you run your pool room nights?

A Days and nights.

Q What?

A Days and nights, yes, days, yes, days.

Q Running all the time?

A Well, not all the time, no.

Q How late at night do you run it?

A From 9 o'clock in the morning until 12 o'clock at night.

Q Do you stay there generally?

A No.

Q You don't say around yourself?

A No.

Q Never?

A No.

Q Never stay there nights?

A No.

Q I didn't get much out of that.

MR. TOMS: Try the next one.

Q When you went up to the store, you weren't looking for anybody or anything except thinking of bread?

A Groceries.

Q That was all the idea there was in your head?

A Yes.

Q Until you saw the policemen. You didn't notice who was on the street nor how many were on the street?

A No, I noticed there was a few people on the street.

Q Whereabouts, before you got to the store?

A Well, there was a few people walking on Charlevoix, and there was a couple of people on Garland.

Q Were they all walking on Garland, or were there some standing?

A Well, the policemen kept them moving pretty much.

Q You saw the policemen keeping the people moving before you got up to the bread place, did you?

A Well, I saw before and after.

Q Where did you first see the policeman keeping the crowd moving, do you remember?

A The first policeman?

Q Where is the first place you observed a policeman keeping the people moving? Now, if you don't get my question, don't answer it, because I don't want - - I want you to understand my question. You saw the policeman - -

A That was the first place that -

Q Now, where?

A On Hurlbut.

Q Hurlbut?

A Yes.

Q That is a new one to me.

A No, not Hurlbut, Garland.

Q Garland. That was when you turned into Garland, was it?

A Yes.

Q Just at the corner as you turned into it?

A Yes.

Q That would be a block away from here, a block away from the corner of Charlevoix and Garland?

A No, no, I am talking about Charlevoix and Garland.

Q All right.

A That is where -

Q I want you to understand my question, so that you answer it correctly. As you came down - as you came down Garland -

A I didn't come down Garland.

Q You came down Charlevoix?

A Yes.

Q Your street, now, - - did you show it to me?

MR. TOMS: The street is over here, come down

here, any street here (indicating.)

Q You live west of Garland, half a block off of Charlevoix?

A Yes.

Q So a block and a half -- after you got to Charlevoix, it is a block and a half before you get to Garland. You came down off your street on to Charlevoix didn't you?

A Yes, one block.

Q What is the first street?

A Bewick, and then comes - -

Q Yes, one block?

A One block, yes.

Q Did you see any policeman between Bewick and Garland?

A Yes.

Q That is what I was getting at?

A They were stationed all along there.

Q What?

A There were several of them stationed along there.

Q How many were there in that block too?

A Well, as near as I can remember, it seemed as though there was three or four of them.

Q Those you saw before you got to Garland?

A Yes.

Q What were they doing?

A Why, just standing there.

Q Were they keeping the crowd apart?

A Well, there was no crowd there.

Q Were they keeping the people apart? Answer if you know?

A Well, there was only a few people there walking.

Q Well, where were they?

A They were over on - -

Q By the policeman?

MR. TOMS: Wait. Let him answer your question.

Where were they?

Q Yes. Where were they?

A The people that I seen were over on Garland.

Q Did you see anybody on Charlevoix before you got to Garland?

A There was a few people.

Q Whereabouts?

A Walking to and fro.

Q Oh. On the sidewalk?

A Yes.

Q Did you see them anywhere else?

A On Garland?

Q No. You said there were a few people walking to and fro on the sidewalk?

A Yes.

Q Now, did you see them in any other place on Garland - - on Charlevoix before you got to Garland?

A Oh, no, no.

Q See anybody?

A I saw the few people, yes.

Q Whereabouts?

A On Charlevoix.

Q You didn't get me.

MR. TOMS: He gets you.

Q Well, I think hardly. Did you see anybody that was not

walking to and fro on Charlevoix? Did you see anybody on the lawns or on the steps, or anywhere else before you got to Garland?

A No, no.

Q That is what I am getting at. Did you see any automobiles parked?

A No.

Q Do you know whether there were any?

A There was none on -- there was none on Charlevoix.

Q Are you sure?

A Sure.

Q Why are you sure?

A Because there is hardly room.

Q Because they don't allow parking?

A The street cars run by.

Q Yes.

A I would have noticed them because --

Q I see.

A Because it wouldn't have been any room.

Q All right.

A -- for a car to get by.

Q Were the policemen doing anything on Charlevoix before you got to Garland, in reference to the people, keeping them back, or keeping them from congregating?

A Well, there was nobody there, only just people --

Q That isn't what I asked you. Were the policeman doing anything at all except standing there?

A No, that is all.

Q Where was the first place that you saw the policeman interfere with the people, and telling them to move on?

A Over on Garland.

Q At the corner?

A Along the -- well, there was -- at the corner.

Q How many policemen were there at the corner?

A Of course, this was after.

Q I am talking about before?

A Before? There were just these people over on Garland.

Q At the corner?

A No, about the corner.

Q You mean north of the corner?

A Yes, I mean --

Q What?

A Near that flat.

Q Yes. Now, do you know what there is at the corner of Charlevoix and Garland, what buildings there are?

MR. TOMS: Which corner?

Q Well, we will first take the -- where is your direction?

MR. TOMS: Just like a map, north, south, east and west.

Q Yes. We will first take the northwest corner. Do you know what that is?

A Northwest corner?

Q Yes.

A Is grocery store, northwest corner is grocery store.

Q Have you got that correct?

A No, that is the northeast corner.

Q That is the northeast corner?

A The northwest. Where this bungalow is.

MR. HAYES: Sweet house.

Q Well, we will take the southwest corner. That is what I had in mind. That is southwest, is it?

MR. TOMS: That is right.

Q Do you know what there is on the southwest corner?

A Southwest? Is the apartment house.

Q Well, you -- apartment house. Now, you had it right. When you went from your street to Garland, which side of Charlevoix did you go on, east or west?

MR. TOMS: North or south?

Q North or south?

A North side.

Q North side?

A North side.

Q Right alongside Dr. Sweet's house?

A Yes.

Q Went right past his house?

A Yes.

Q At that time was there anybody standing in front of the apartment house, or sitting on the steps of the apartment house, or don't you know?

A Well, if there was anybody sitting --

Q No, not that. Was there anybody sitting there, or don't you know?

MR. TOMS: Let him finish the answer. It may be responsive.

A I didn't see anybody there.

Q Did you look that way?

A Yes.

Q Would you say there was nobody there?

A Well, there may have been one or two people there.

Q Well, do you know anything about that? You are just guessing? Do you know whether there was anybody there or not?

A Well, I couldn't say whether there was any people there or not.

Q Do you know where the schoolhouse is?

A Yes.

Q What?

A Yes, sir.

Q Anybody in that yard?

A I didn't look in the yard.

Q The schoolhouse covers a block, doesn't it?

MR. TOMS: Not the schoolhouse.

Q The yard, I mean. Thank you. You didn't look in?

MR. TOMS: Answer it, Mr. Wettlaufer.

A No.

Q You don't know whether there was anybody there or not?

A No.

Q What first made you think something was doing up there?

A Well, I didn't think. I went to the grocery store. After I got there I saw there was something going on.

Q You didn't go into the grocery store?

A No, no.

Q What made you think there was something going on?

A Well, when I got up there I saw the policemen. That is very seldom you see policemen in that neighborhood. And it looked kind of out of place to me.

Q Kind of what?

A Out of place.

Q And you then saw the people up there, did you?

A I saw the people -- yes, some people on Garland.

Q And you went up to where they were?

A Yes.

Q Did you talk to anybody at all?

A No.

Q Get close to anybody?

A Yes.

MR. TOMS: If your Honor please --

Q You didn't say a word?

A No.

MR. TOMS: If your Honor please, every bit of this has been gone over before, identical transaction.

Q You were there fifteen or twenty minutes around that corner and going up to the point with the crowd, weren't you, before the shooting?

A Well, I don't know, I suppose about that time.

Q Have you an idea when you left home what time of night?

A No.

Q Not a bit of idea?

A Knew only that it was early, early in the evening.

Q Just what do you mean by "early"?

A Well, probably half past seven, eight o'clock.

Q And in all that time you talked to nobody?

A No.

Q You asked no questions of any sort?

A No.

Q Did you hear anybody say anything?

A Well, I didn't, no, - - no, I didn't hear them say anything, talking.

Q You saw the policemen keeping the people moving. About how long did that take you, to go from your house to the corner there?

A Oh, probably - - from my house to the grocery store?

Q Yes.

A Probably five minutes, maybe more.

Q Were there any automobiles or people on the side where Dr. Sweet's house was?

MR. TOMS: Which side?

A No.

MR. TOMS: Which street?

Q Either Charlevoix or Garland?

A No, I didn't see any automobiles on Charlevoix.

Q There might have been, and you not see them?

A No, I would have seen them there, right in front of me.

Q Were they on ^A--/if there were after.

Q Were they on Garland?

A I didn't pay any attention on Garland.

Q You didn't see anybody come up in a taxicab or machine, and anybody get off either at Dr. Sweet's house? You know where that is, don't you?

A No, I didn't see anybody. Yes.

Q And you didn't hear any stones rattling against the house?

A Well, I heard some noise. It may have been stones, or mud.

Q Whereabouts? Where were you then?

A In front of this flat.

Q Was that before the glass, or after or at the same time?

A Why, it was about the same time, I guess; about the same time.

Q You heard this noise rattling against this house and heard the glass?

A Yes.

Q And after that the shooting? Well, now, Mr. Wettlaufer, don't you know that they were stones? Don't you know there were stones thrown at the house?

A No.

Q Don't you know that was the noise of stones?

A No.

Q What did you think it was?

A Well- -

MR. TOMS: I object to that. Just a supposition.

A It might have been anything.

MR. TOMS: Wait, please. A guess as to what it was.

He didn't say. That was simply a guess.

Q What sort of a noise did you hear there?

A Well, it sounded like dirt, hard dirt, you know, striking something crumbling into smaller pieces.

Q How could you hear it crumble?

A Well, that is the way it sounded to me.

Q Well, did it sound like crumbling?

A Yes.

Q You were a block away, nearly?

A Oh, no.

MR. TOMS: From where?

Q Half a block, anyway.

MR. TOMS: From where?

Q From the house.

MR. TOMS: He didn't say that was at the house.

Q Yes. I asked you the question whether you heard anything on Dr. Sweet's house. Now, you said that you did, didn't you?

A Yes. Well, I don't know whether it hit the house, or not.

Q You knew it was in that direction, didn't you?

A I heard some noise, and the supposition was that --

MR. TOMS: Well --

Q What?

A That it hit the house.

Q Yes. Dr. Sweet's house?

A Yes.

Q And that was at the same time that the windows -- window broke?

MR. TOMS: Wait a minuge. I ask that his supposition be stricken out.

THE COURT: Well, I think that is improper, his supposition, but it seems to me that I ought not to deny Mr. Darrow for the defense the opportunity to examine this witness as definitely as possible as to what he heard there

at the Sweet house. I do not want to limit you in that at all. I sustain the objection of the prosecutor as to the supposition.

MR. MOLL: May I ask that the jury be instructed to disregard it?

THE COURT: Yes, they will disregard any supposition. He will have to testify to what he saw and heard.

Q Do you belong to any club up there?

A Yes, sir.

Q What club?

A Why, I belong to the Waterworks --

Q Improvement Club?

A Improvement Association.

Q Ever attend a meeting?

A Two, I think.

Q What?

A Two.

Q How long before this happened?

A Oh, quite a while.

Q How long?

A Probably six weeks.

Q Since you heard that a colored man was coming in there?

A No, this was two weeks, a week after.

Q After you heard?

A Yes, after I heard that.

Q Was that discussed at the meeting?

A No, it was -- asked what they were going to form it for, for the welfare of the people in that district.

Q Was the colored man's coming in there discussed or referred

to in any way at the meeting?

A Well, I say in a veiled sort of way. There was no mention of colored people.

Q It was veiled?

A Yes.

Q You knew what they meant?

A Yes.

Q Now, let me ask you, when you went up north on Garland that night, you heard something loud that came, as you believed, from some thing -- from some things going against the house of Dr. Sweet, didn't you?

MR. TOMS: Just a minute. It has been answered, and that is not his testimony.

Q Well, then -- let me find out.

MR. TOMS: Answer being put in his mouth.

THE COURT: The objection is overruled. You may have an answer.

Q Did you? Can you tell that?

A What was that?

Q I didn't get that.

Q At the time or just before the time you heard the glass shatter, did you hear something that seemed to kind -- some things had been thrown at Dr. Sweet's house?

MR. TOMS: Wait a minute. Don't answer it, please, when an objection is made. It calls for a conclusion. It calls for --

THE COURT: The objection is sustained to the question in that form.

Q Did you hear noise of -- that seemed to be stones thrown against Dr. Sweet's house?

MR. TOMS: The same objection.

THE COURT: I think he may have an answer to that.

A Well, I didn't know whether it was a house, or not that this stuff was thrown at, whether it struck the house, or not, but afterwards, since the trouble was, of course, it was the way I stated, maybe it was against this house, but I don't know whether this stuff hit the house at that time, or not.

Q You heard the noise of stones striking a building in that vicinity, didn't you?

A Well, may not have been building. It may have been something else.

Q You heard these things striking something?

A Yes. That is it.

Q You know these people are on trial?

A Yes.

Q For a serious offense?

A Yes, sir.

Q Are you willing to tell what you know about this case?

A Yes, sir.

Q Did you know of anything else that noise could have come from excepting stones against that building at that time?

MR. TOMS: That is objected to as calling for a conclusion.

THE COURT: The objection is sustained.

Q You knew where Dr. Sweet's house was, didn't you?

A Yes.

Q And you knew sounds of something striking a building came from that direction, didn't you?

A Well, it seemed like it, yes.

Q And you knew the sounds of breaking glass came from, from that direction?

A Yes.

Q And they came about the same time?

A Yes.

Q And after that the shooting?

THE COURT: Answer now so that your answer gets on the record.

MR. TOMS: After that the shooting?

Q Yes. That is all.

REDIRECT EXAMINATION

BY MR. TOMS.

Q Just one question. Mr. Darrow has said, has used the words that these officers were pushing the people back over on the east side of Garland, as if he pushed. Is that what they did?

A Oh, they didn't push them back. They just told them to move along.

Q I mean, right after the shooting. You said that they moved you further up Garland Avenue?

MR. DARROW: I was speaking of before.

A Yes, yes, after.

Q Or before?

A And before.

Q Did any officer have any trouble in getting the people to move along?

A No.

Q Did it require any pushing or hurting one?

A No.

REGROSS EXAMINATION

BY MR. DARROW:

Q Just shooed them along, Mr. Wettlaufer?

A No, told them to move on.

MR. TOMS: Spell that word.

MR. DARROW: (Spelling) S-h-o-o-e-d.

MR. TOMS: That is all.

- - - - -

O T T O H. E B E R H A R D T, called as a witness, in behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Have a chair, please. Your name is Otto H. Eberhardt?

A Yes, sir.

Q Where do you live, please?

A 3485 Garland.

Q Married?

A Yes, sir.

Q Family?

A Two children.

MR. DARROW: I beg your pardon, where did he say he lived?

MR. TOMS: 3435 Garland.

Q I didn't hear your answer to the former question?

A Yes.

Q How many children?

A Two.

Q Girls?

A Girl and a boy.

Q How long have you lived on Garland?

A Oh, I think it is close on ten years.

Q Were you at home on the night of September 9th, after dinner, after six o'clock?

A Yes.

Q Where were you about eight o'clock?

A Well, now, I couldn't say to that, the exact time --

Q Well, what did you do after dinner, Mr. Eberhardt?

A I was sitting out on the front porch.

Q Is your house a two family flat?

A Yes.

Q Which one do you live in, up or down?

A Lower.

Q Do you own it?

A Yes, sir.

Q You rent the upper?

A Yes, sir.

Q How old are your children?

A The girl is eighteen and the boy fourteen.

Q

Q Well, after dinner, state what your family -- you and your family did? Where did you go, if anywhere?

A Well, I was sitting out on the front porch.

Q And who else was on the porch?

A My wife and children and the people upstairs.

Q Both your children?

A Yes.

Q How many members of the family upstairs?

A Just two.

Q Man and his wife?

A Yes.

Q What is their name?

A Pelletier.

Q Pelletier?

A Yes.

Q Where they on the porch too? Was there anybody else in front of your house?

A Not that I know of.

Q Now, your number is 3435?

A Yes.

Q How far is that from the corner of Charlevoix?

A Well, it is about four houses above Goethe.

Q That is a block away?

A Yes.

Q From the corner then?

A Yes.

Q Better than a block away?

A Yes.

MR. DARROW: Goethe would be the next street?

A Goethe is the next.

MR. DARROW: You are four houses above that?

A Four or five north of Goethe.

Q Goethe, of course that is the wrong way to pronounce it, but that is proper?

A Goethe.

Q Is the first street north of Charlevoix, is it?

A Yes, that is it.

Q Now, later in the evening, did you go down Garland Avenue?

A I did.

Q What time did you go down? ^A /Well, I don't know just about the time, but I know it was dark. I know it was after eight o'clock.

Q After it got dark. What happened? What did you see?

A Well, there were a lot of policemen around there and people walking back and forth, and I walked down Garland, and walked about - - oh, I imagine three or four houses maybe, the house back of the store there, when I heard three shots.

Q Heard what?

A Heard three shots.

Q That is, you were about three or four houses north of the grocery store which is on the corner?

A Of the house back of the grocery store.

MR. DARROW: That would be the apartment?

MR. TOMS: No, he is coming down.

A Coming down Garland Avenue.

Q Coming from the north?

A Yes.

MR. TOMS: He lives up here (indicating).

MR. DARROW: Well, house back of the grocery store.
The apartment in here.

MR. TOMS: Two-family apartment. That is, two flats.
They don't call it apartment here.

A Two flat, yes.

MR. DARROW: Call them apartments.

MR. TOMS: I don't know when it gets into the apart-
ment class.

MR. DARROW: You get more money for apartments.

Q At that time you say that you heard three shots?

A Yes, sir.

Q Did you see where they came from?

MR. HAYES: Just a minute. May I have it now on the
record that all this testimony is understood - -

THE COURT: Yes.

MR. HAYES: Or is it necessary that we make that motion
order to have it shown
in ~~XXXXXXXXXXXXXXXX~~ on the record?

THE COURT: I suppose it is not - -

MR. TOMS: I think it can be understood that the
testimony of each witness taken subject to your objection.

THE COURT: All right.

MR. HAYES: And the right to move to strike it off,
not connected?

MR. TOMS: Yes, sir.

THE COURT: All right.

Rx 2 2:9

Q I ask you if you could say where the shots came from?

A Why, I wasn't looking that way, but the sound came from the corner.

Q You didn't see the flashes of the fire?

A No, because I wasn't looking that way.

Q But the sound came from where?

A Oh, it seemed from the corner house.

Q Which corner house is that?

A Well, the northwest corner.

Q Of Garland and Charlevoix?

A Yes.

Q MR. DARROW: Call it Dr. Sweet's.

Q That is Dr. Sweet's house. Refer to it as the Sweet house. The sound came from there?

A Yes.

MR. DARROW: Seemed to, he said.

Q Yes, seemed to come from there? What did you do after you heard the shots?

A I stopped quick.

Q And then what?

A I heard a moan, and I saw a man kind of stagger over to the house.

Q Now, which house?

A Well, I think it was the first one back of the grocery store.

Q On the east side of Garland?

A Yes, east side.

Q Well, what did you do then?

A Well, I stopped and I didn't go any further. I was afraid that -- perhaps they would get me, and I waited for about a minute and I -- the young man ran over and then shortly after --

MR. DARROW: Is this anything that is important, what happened after that?

MR. TOMS: I think it may be.

A Then the police officer came up with a flashlight and I went over there and looked at the man that was shot.

Q You looked at the man that was shot. Where was he lying?

A On the north side of the house, right against the steps. He was -- he was kind of sitting back that way.

Q Was he conscious?

A His eyes were closed, and there was blood coming out of his mouth.

Q He didn't speak to anyone?

A Oh, no.

Q Then what did you do?

A Well, I stayed there for a few minutes until they carried him over to the flyer and they took him away.

Q And then what?

A I went home then.

Q Now, as you came down Garland Avenue, did you notice any crowd of people anywhere?

A Oh, there was people walking up and down the -- when I went down there, they stopped them coming down on the west side of the street. I went down on the east side.

Q Do you mean they stopped them from even walking down the

west side of the street?

A Well, from going down, yes.

Q Yes. That is the side Dr. Sweet's house is on?

A Yes.

Q They didn't even let pedestrians go down?

A They stopped them that I saw.

Q How about automobile traffic?

A Yes, detoured back over Goethe; wouldn't leave them go down there at all.

Q There was none coming down Garland?

A They wouldn't leave any at all.

Q Well, now, on the east side of Garland, as you came down, did you notice any groups of people congregated?

A People out in front of their houses, I could see all the way down Charlevoix, so that there couldn't be many people.

MR. DARROW: I ask to have that stricken out.

THE COURT: It may be stricken from the record.

MR. TOMS: All right.

Q As you came down Garland, could you see clear to Charlevoix?

A From where I was when I heard the shots, yes.

Q Were there people standing out on the street?

A No, not that I noticed, very much.

Q Did you hear any shouting or calling?

A Not until I heard the shots. Then there was a lot of excitement.

Q Did you see anyone armed with ~~knives~~ clubs or stones or weapons?

A No, not a bit.

Q Did you pass any police officers on your way down?

A Why, I guess I did. I think half a dozen of them.

Q In that block?

A Yes.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q What is your business?

A I am shipping clerk.

Q For whom?

A Mitchell Shield Company.

Q How long have you been with that company?

A Close on to seven years.

Q How long have you lived where are you now?

A Close on to ten years.

Q Ten years?

A In the neighborhood, yes.

Q Own your own home?

A Yes.

Q You have owned it for some time?

A Yes, about -- I judge about five years.

Q Do you belong to the Waterworks Improvement Club?

A I do.

Q When did you join?

A Why, I couldn't tell you the date.

Q Tell me pretty nearly, couldn't you?

A Summer time, it was some time.

Q This summer?

A Yes.

Q All you know about the date is it was in hot weather?

A Yes.

Q How many times have you attended meetings?

A Oh, about once or twice, I guess.

Q Do you remember when?

A Well, there was xone meeting in the schoolhouse I attended.

Q When was that?

A What date was it?

Q Yes.

A Oh, I couldn't tell you that because I didn't have any particular intention to those things.

Q You know it was hot weather, or not?

A Yes.

THE COURT: Was it prior to the date of the shooting?

MR. DARROW: What?

THE COURT: Ask whether it was prior to the date of the shooting, the 9th?

Q Was it before the day of the shooting?

A Yes, sir.

Q But you don't know how long before?

A No, I couldn't say. I wouldn't want to say, sure.

Q Where was the other one that you attended?

A At Amity Temple.

Q When was that?

A That was later on.

Q How long before the shooting?

A Well, I think it was after.

Q How long after?

A I don't know, the following week, or not. I think it was.

Q Don't you think you could tell us if you tried real hard?

A I wouldn't want to say positively, no.

Q What do you think, was it after?

A Yes.

Q Very soon after?

A Well, I presume within a week?

Q Was it the next day after the shooting?

A I wouldn't say positively now.

Q Well, couldn't you remember if it was the day after the shooting?

A Well, I wouldn't want to say unless I was positive about it.

Q Was the meeting especially called?

A Meeting was called, yes.

Q Was it on account of this shooting?

A No.

MR. TOMS: Wait a minute. Wait a minute. It is subsequent to the event, and it would be immaterial.

MR. DARROW: Well, it might not be, but still I am willing to leave it where it is.

THE COURT: I think it is somewhat immaterial. I do not see the danger of that.

Q Don't you think you could tell me if you tried hard when the first meeting was?

A No, I could not.

Q Were you notified to come to it?

A Why, one of the men notified me, yes.

Q Came to the house. Who was it?

A Oh, I don't remember now.

Q And you went?

A Yes, schoolhouse meeting.

THE COURT: We will take a fifteen minute-recess
at this time.

(Recess.)

- - -

11 AM
Howse

Q (By Mr.Darrow): At the first meeting of the Improvement Club that you spoke of, was any reference made to Dr. Sweet or the colored people coming into the neighborhood; any reference?

A Why, not that I can remember. There was something made about -
MR. TOMS: Never mind, never mind. You have answered the question.

Q Anything made about any restrictions you should have there, as to who moved in?

MR. TOMS: Now, just a minute, please. There is nothing unlawful about that; therefore it is immaterial. As to the time that this was, this was a number of weeks before the shooting, he said.

THE COURT: Yes, but I understand Mr.Toms - I do not know, but I assume that it is to show interest.

MR. DARROW: I beg pardon.

THE COURT: This is asked to show the interest of the witness.

MR. DARROW: That is all, your Honor.

THE COURT: And as affecting his credibility.

MR. DARROW: That is all. I do not claim it is unlawful.

THE COURT: I think, on that theory, he has a right to ask the question.

Q (By Mr.Darrow): How about that?

A Will you ask me the question again, please?

(The question was read by the Reporter)

Q (By Mr.Darrow): Was there anything said with reference to making restrictions, or providing arrangements whereby

undesirable people could be kept out of the neighborhood?

A There was, yes.

Q And that had reference to colored people?

MR. TOMS: Wait a minute.

A They did not say.

THE COURT: Wait until counsel has an opportunity to object.

MR. TOMS: That is objected to.

THE COURT: Objection overruled.

Q (By Mr. Darrow): Had that reference to colored people?

MR. TOMS: That is also objected to, on the ground it is hearsay, and it calls for a conclusion.

THE COURT: You may answer yes or no.

A No.

Q Did it have reference to any particular kind of undesirable people?

MR. TOMS: Now just a minute, that calls for a conclusion. I object to it.

THE COURT: He may answer the question if he knows.

A Any particular kind of people?

Q Who were undesirable, yes.

A No.

Q When did you first hear that Dr. Sweet or some other colored person had bought a place at the corner of Garland and Charlevoix, or in that vicinity? When did you first hear of it?

A Well, I don't know; I guess it was in August some time. I ain't just sure. I would not be positive about anything

of that kind.

Q It was sometime in the summer, wasn't it?

A Yes, sir.

Q You did not want colored people to come into the neighborhood, did you?

MR. TOMS: That is objected to as immaterial.

MR. DARROW: Just to show the attitude of mind of the witness.

THE COURT: Objection overruled. He may answer.

A As far as myself is concerned, I would object to them, yes-sir.

Q How?

A I would object to them myself.

Q You would. That is the answer, isn't it?

A Yes.

Q Now, you were tellus something about the 9th. Where were you the 8th, the evening of the 8th?

A Is that the night previous to the shooting?

Yes.

A I was not home that night.

Q Were you out of the city?

A No. I was out visiting.

Q How is that?

A I was out visiting.

Q Attending any meeting?

A No, sir.

Q About what time did you go away? I assume none of these questions are embarrassing. If they are, you do not need

to answer.

A Oh, no. You are referring to the night before?

Q The night before?

A It was after dinner, in the evening.

Q You were home to dinner?

A Yes.

Q What time did you leave the house, about?

A Oh, I should judge I generally left around 7:30 or around that time.

Q Do you know about what time you returned; just about, is all I want.

A I think it was late in the evening, real late.

Q Before midnight?

A Yes, it was before that.

Q Did you pass the corner of Garland and Charlevoix that night?

A Yes.

Q What time did you get home on the evening of the 9th?

A I generally get home about six o'clock.

Q What time did you go out on the porch?

A Oh, it would be about 7 I guess.

Q Your wife and two girls were with you?

A No, one girl and boy.

Q One girl and one boy?

A Yes.

Q And the people upstairs were there?

A Yes, sir.

Q That is a two flat building?

A Yes, sir.

Q And do you know about the size of the building, the width of it?

A I think it was 24 by 42, something like that.

Q Beg pardon?

A 24 by 42, I think it is.

Q 42 is the depth, I assume?

A Yes, sir.

Q Is there a porch across the whole front?

A Yes, sir.

Q And that is where you were all sitting?

A Yes, sir.

Q And nobody else in the house?

A No.

Q Neither of your families keep a maid?

A No, sir.

Q Have you an automobile?

A Yes, sir.

Q Have you a garage?

A A garage?

Q Have you got a garage?

A Yes, sir.

Q Do you keep your automobile in the garage?

A Yes.

Q It was in there that night?

A Yes, sir.

Q Have the people upstairs got an automobile?

A No.

Q How long did you sit there on the porch?

A Oh, until it got dark, around 8 o'clock, somewhere around there, I imagine it would be that time.

Q Wouldn't it get dark before 8?

A Why, I think around 8 o'clock it got dark.

Q Well, you stopped there until it got dark?

A Yes.

Q You people who lived in the apartments?

A Yes.

Q Were you talking about anything?

A They were talking about the crowds going by.

Q Anything about the colored people?

A Not particularly, no.

Q Anything?

A Well, they were talking about their moving in there.

Q Were they talking about the policemen being around there?

A Well, they made some remarks, sure; they naturally would.

Q You knew why they were there, didn't you?

A Absolutely.

Q Were you talking to anybody - were you talking anything about what happened there the night before?

A I didn't know anything that happened the night before.

Q Was anything said that night about the situation on the night before, during the day?

A No, we didn't say anything about it, because we didn't know.

Q You did not know at that time how long the policemen had been there, did you? Is that right?

A No. I didn't know they were there the night before, if that is what you mean.

Q That is what I mean, yes. Now, you were looking over in that direction, I suppose?

A Well, not particularly, no. It was a long block from there.

Q What?

A It was a long block from there.

Q Did you look to see?

A We did occasionally, yes.

Q Dr. Sweet's house was in plain view as long as it was light, wasn't it?

A Not from my place.

Q You could not see the house from your place?

A No.

Q But you could see down to the corner of the street, couldn't you?

MR. TOMS: What streets?

MR. DARROW: Down to the corner of Garland and Charlevoix.

A Well, I could see there, but of course that is quite a long block, to look at, at night, in the dark.

Q No, I asked you, Mr. Witness, whether you could see, while it was light, before dark?

A Oh, do you mean, to see that far?

Q Yes.

A Yes.

Q And, you could see Dr. Sweet's house, too, couldn't you?

A Not if I was on my perch, I couldn't.

Q Before dark?

A No, sir.

Q Will you look at this map just a minute. Here is Dr. Sweet's house. You can step down here if you would rather.

A No, that is all right.

Q That is on the northwest corner of Charlevoix and Garland. Now, you lived on the east side of Garland, as I understood it.

A The west side.

Q Oh, you lived on the west side?

A Yes, sir.

Q Well, then, we did not understand your answer. You could see the grocery store, I suppose?

A Yes.

Q But you could not see around the corner?

A Not very well.

Q You could see the street crossing?

A Yes.

Q And when it got dark, you started south?

A Yes, sir.

Q Anybody go with you?

A No, there wasn't.

Q You did not take the children along?

A Well, the girl started with me, but she did not go down with me.

Q What is that?

A The girl started with me but she did not go to the car. She met some friends of hers. She did not go.

Q Any special reason why she did not go?

A No. She just met some girl friends of hers, and she was talking with them.

Q She did not go anyway?

A No.

Q The boy started with you?

A No, he stayed home.

Q He did not go?

A No.

Q And your wife did not go?

A No, sir.

Q Did the people who lived upstairs go with you?

A No, sir.

Q Neither the man nor the woman?

A No, sir.

Q You are sure about that, are you?

A Absolutely.

Q What is his name?

A Peltier.

Q How do you spell that?

A P-e-l-t-i-e-r.

Q Did you say anything to him, when you left him, as to just where you were going?

A No, I did not.

Q Or, why you were going?

A No, I did not. I told him I was going to take a walk down the street.

Q Did you have any purpose in going?

A Not particularly.

Q You were not going to the grocery after bread or any such things as that?

A No, sir.

Q You were not going to the grocery at all?

A No.

Q You went down, on account of what was going on down that way, didn't you?

A Just to see what was going on, yes, sir.

Q And you got down there. You crossed the street, I take it?

A Yes, that is, Goethe.

Q What is that?

A That was Goethe. You mean, crossed Garland?

Q Yes, crossed Garland.

A Yes.

Q The policeman would not let you pass the street, on the same side?

A Well, I did not go down on that side. I crossed before I got to there.

Q You crossed on the north side of Goethe?

A Yes, sir.

Q And there was a policeman there, wasn't there?

A Yes, on the south side of Goethe.

Q Well, there was a policeman at the crossing?

A Yes, sir.

Q And he was not permitting automobiles to go down that street?

A No, sir.

Q He was diverting all traffic from it?

A Yes, sir.

Q And he was not permitting pedestrians to walk on the west side of the street?

A Yes, I seen him stop several of them.

Q And they went over to the other side, did they?

A Well, I couldn't say about that.

Q You did see him stop them?

A Yes, sir.

Q And you walked along down to the house where this man was killed?

A No, I didn't walk down that far.

Q How far down did you go?

A About three or four houses from there.

Q You did not get down that far?

A Not until after he was shot.

Q It was dark, was it?

A Yes, sir.

Q Any lights right there?

A Well, there was an electric light right on the corner, and I think there was one in the middle of the block.

Q Were there houses all along in that block?

A Yes, there was houses all along there.

Q There was houses all along Garland, on both sides of the street for two blocks?

A Yes, sir.

Q And on the other side, on the other side of Charlevoix; it is very thickly settled in there?

A Yes, sir.

Q You saw people on the street?

A Yes, there was people on the street.

Q How many policemen did you see on the street before you got down to where the man was shot?

A I imagine about a half a dozen.

Q What were they doing?

A Just patrolling the street there.

Q Anything but patrolling?

A That is all I could see.

Q Were they giving directions to the people, as to keeping away, or keeping separated, or not gathering into crowds?

A I imagine that is what they were there for.

MR. MOLL: No, no. Not what you imagine.

MR. DARROW: Let it go out. I am satisfied.

Q Did you see them go up to people?

A I saw them talk to people, yes.

Q And you saw the people separate at the time, I suppose?

A Yes, sir.

Q You knew, from your experience, that they were trying to keep the people moving, and keep them from collecting?

A Yes, sir.

Q And you say there was about six you saw before you got down to this house?

A Around that. I didn't count them.

Q Did they all wear uniforms?

A That is the only way I would know them.

Q That is what I assumed. If they had been wearing civilian clothes, you would not have known they were policemen.

That is, you were not personally acquainted with them or anythinglike that?

A No.

Q Of course, some of us know some policemen, no matter how they are dressed. But that is the way you told them anyhow. Now, you heard three shots?

A Yes, sir.

Q How far down had you got when you heard the three shots?

A Oh, about three or four houses from where the man was shot.

Q Any automobiles parked along the street?

A I didn't notice at the time.

Q So you could not say whether there were or were not?

A No, I couldn't.

Q And you didn't get any further down than that, before the shooting?

A No, sir.

Q You were going down to the corner, I suppose?

A Yes, sir.

Q And you concluded, on mature deliberation, not to go any further?

A Well, I don't know. Oh, you mean at that time?

Q Yes, at that time?

A When I heard the shots, sure.

Q You were not taking any special observations before the shooting occurred?

A No.

Q About how long did the shooting last?

A You mean the firing?

Q From the first shot to the third shot. I suppose that is a hard question to answer.

A Pretty quick; yes it is.

Q And, I know you cannot tell us exactly correctly?

A No.

Q And nobody else could?

A No, nobody else could.

Q Give me your best judgment?

A They were one right after the other.

Q But they were distinct, were they?

A Yes.

Q So that you could clearly distinguish between the first, second and third?

A Yes.

Q And then they stopped?

A Yes.

Q And that is all the shooting there was?

A That is all I heard.

Q Well, now, after the third shot was fired, where did you go? You saw this man fall, I believe?

A I saw the man. I heard him moan first, and I saw the man stagger, and I waited a minute or so, until I saw the police officer go up there with a flashlight; then I went up there.

Q How close were you to him?

A As close as to this man here (indicating court reporter).

Q That is about five or six feet. Did you see him before he was hit, do you know?

A No, I couldn't say that I did, only that there was a man ahead of me. I don't know whether that was him or not. I imagine so.

Q There were a number of people standing around there, weren't there?

A Not very many.

Q Well, a number, weren't there?

A Well, a number? How many would you call "a number"?

Q Well, I don't know. You said "Not very many." I was wondering how many you would call that?

MR. TOMS: One or more?

Q (By Mr. Darrow): Do you know how many there were?

A I do not.

Q You did not pay any special attention to that?

A No.

Q Where were you when you heard the shots?

A About two or three houses from where the man was shot.

Q Aren't you mistaken a little about that? If he was shot, you did not have time to get down three houses before he fell over, did you?

MR. TOMS: He did not say that.

A I did not say that.

MR. DARROW: Well, now, perhaps he did not. I have not the slightest desire to have him state it otherwise than he understands it.

THE WITNESS: I says, when I heard the shot - do you want me to tell you?

MR. DARROW: Yes, sure.

A When I heard the three shots, I stopped.

Q Yes.

A And I waited there until I saw a police officer there go over with a flashlight.

Q Well, you were right close to him when you heard the shots, were you?

A Well, that distance.

Q What distance?

A Why, two or three houses.

Q Well, when he fell, you were close to him; didn't you say as close as to this reporter, five or six feet?

A When I went up to view the man, I was that close to him.

Q Oh, well then we did not understand each other.

A No.

Q That often happens in this world. Well, you could see him then, some three or four houses away, as he fell, is that right?

A I didn't see him fall. I said I heard him moan, and I saw a man stagger.

Q Well, now, when he staggered, did he stagger in any direction?

A Over towards the house.

Q He staggered towards the house?

A Yes.

Q Evidently, standing in front, when he was hit?

A I imagine.

Q I do not suppose you could tell how far he staggered, when he went down?

A No, I couldn't.

Q You heard the moan?

A Yes, sir.

Q And other people gathered around there I suppose immediately?

A Yes, sir.

Q And police officers?

A Yes, sir.

Q And you went to him, as a man naturally would, and he lay there apparently dead?

A Yes, sir.

Q And you went right back home?

A After they put him into the flyer?

Q Quite a crowd had gathered around by that time.

A Oh, yes.

Q They put him in what, did you say?

A I think it was the flyer, the police flyer.

Q That is a patrol wagon, I suppose, of some sort?

A No, I think it was a touring car if I am not mistaken.

Q It came up from the station for him, I suppose, and that happened right away?

A Yes, sir.

Q And you went immediately back home?

A Yes, sir.

Q Did you see anybody you knew out there?

A No, not particularly.

Q Did you, in general?

A No.

Q In the people who were there, you did not recognize anybody as far as you know now?

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A No, I did not.

Q That may have been because you did not know them, or because you were not thinking about it, or because you were excited?

A I was not paying attention.

Q You were not paying any attention to that?

A No.

Q When you went home, you went into the house?

A Yes, sir.

Q You did not stay out on the porch any longer?

A Yes, I stayed out for a little while.

Q Did you go back again that evening?

A No, sir.

Q At that first meeting, did some man speak who came from the Tireman Association?

MR. TOMS: From the what?

MR. DARROW: Tireman? Is there a Tireman Improvement Association? Do you recognize the name?

A No, sir.

Q Did anybody speak?

A I don't believe - well, there was somebody spoke, but I don't believe there was any man from the outside.

Q Did you speak?

A What is that?

Q Did you speak?

A No, I didn't say anything.

Q You are not an orator?

A Not very much.

Q And did they arrange for a committee of five men to a block?

A They did.

Q To be appointed immediately?

A Were they appointed, you say?

Q Yes.

A Well, as far as they could.

Q Were you on the committee in your block?

A I was on one of the committees.

Q What one was that?

A One of the five.

Q That would relate to your block?

A Yes.

Q There was an account of all this in the papers the next day, wasn't there?

A (No answer).

MR. DARROW: I guess I got a wrong hunch. I think that is all.

REDIRECT EXAMINATION

BY MR. TOMS:

4 Q Let me ask you one question. Did you know the man who was dead, personally?

A Not personally.

Q Had you ever seen him before?

A I don't remember of ever seeing him.

Q You went down the street from your house, as a matter of curiosity, did you?

A Yes, sir.

Q Was that all?

A That was all.

MR. TOMS: That is all.

MR. DARROW: Just one second.

Q (By Mr. Toms): Were you armed, yourself? Did you have a gun?

A I hope not.

Q Or were you carrying anything in your hands?

A No, sir.

Q Clubs?

A No, sir.

Q Stones or anything of that kind?

A No, sir.

MR. TOMS: That is all.

RECROSS EXAMINATION

BY MR. DARROW:

Q Did you solicit any membership in this organization, as a member of the committee or otherwise?

A I was not active on the committee.

Q Did you solicit any membership, ask anybody to join?

A I spoke to several people, but I didn't give them any applications.

Q In your neighborhood?

A Yes, sir.

Q Did you mention negroes to the people you solicited?

A No, sir.

Q Did you tell them why they ought to join? Did you tell them?

A I do not ask you what you said, but did you tell them?

A Tell them what?

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MR. TOMS; Why they should join?

MR. DARROW; Why they should join.

A Oh, I told them for the improvement of the neighborhood.

Q Did you tell them what improvement?

A No, sir.

MR. DARROW; That is all.

MR. TOMS; That is all.

(Witness excused).

- - - - -

R U S S E L L C. B U R N S, was thereupon called as a witness on behalf of the prosecution, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HOLL:

Q What is your full name, sir?

A Russell C. Burns.

Q Where do you live, Mr. Burns?

A 3403 Garland.

Q That is on which side of the streets?

A On the east side.

Q North or south of Charlevoix?

A North, one block.

Q One block?

A Yes.

Q You are familiar I take it with the northwest corner of Charlevoix and Garland?

A Yes, sir.

Q Were you in that vicinity on September 9th of this year?

A Sir?

Q Were you in that vicinity on the night of September 9th?

A I was home at first.

Q Well, you left your home about what time?

A I don't know; I heard some shooting, and then I left the house.

Q Well, how far in feet would you say your house is north of Charlevoix?

A I don't know; it is one block.

Q Is that a long block?

A Yes, sir.

Q Or a short block?

A A long block.

Q You are up near Goethe?

A Goethe?

Q Goethe or whatever the name of it is.

A Goethe?

Q MR. DARROW: You had better find that out.

MR. TOMS: We will change the name of the street.

Q You were at home you say at the time of the shooting?

A The first shooting.

Q Was there anyone there besides yourself?

A My mother had been sick for four years, and my brother come over there every other night, and he came there and he was just in there, and somebody drove up in front and blew the horn, and we walked outside, and we heard shooting.

and I said "There is something doing."

MR. DARROW: Wait, never mind what you said.

THE WITNESS: Allright.

Q (By Mr. Moll): You were inside then I take it, at the time your attention was attracted to the shooting?

A No, just outside.

Q On the porch?

A No, out on the sidewalk.

Q Was your brother with you?

A Yes, sir.

Q You had been called out of the or went out of the house, before any shooting took place?

A Yes, sir.

Q Now, let me get you. Are you north or south of Goethe?

A I am right on the corner - on the northeast corner.

Q Northeast?

A Yes, sir.

Q You are just across the street then, across Goethe Street?

A Yes, sir.

Q Could you trace the direction of these shots that you heard?

A You mean from the sound?

Q Yes.

MR. DARROW: The direction?

Q Could you tell where the shooting came from?

A Well, I thought it came from there, it came from that way.

Q From where, please?

A From Charlevoix.

Q Did you go down in that direction?

A Yes, sir.

Q And who went with you?

A My brother.

Q How many shots were fired at first?

A I don't know.

Q Well, about how many would you say you heard?

A Well, I couldn't say. There was quite a few. I couldn't say how many.

Q Then you immediately started in the direction of Charlevoix?

A Yes, sir.

Q You did not hear any more shots?

A Not until I got there.

Q And how long did it take you to get there?

A Why, I don't know.

Q Approximately?

A Oh, I should judge a couple of minutes.

Q Did you run or walk?

A I walked real fast.

Q You and your brother?

A Yes, sir.

Q Where did you stop after you approached Charlevoix?

A Well, I didn't get that far.

Q I am trying to find out how far you did get, approaching Charlevoix?

A Well, the house, the second house back of the store, that is where I was.

Q Are you acquainted with the people who live there?

A No, sir.

A No, sir.

Q Now, what did you see or hear after you arrived at that spot?

A Just as I got there I seen flames out of the front window; and somebody - I heard somebody holler, and I looked and seen a man fall.

Q You heard and saw more shooting then?

A When I got there, yes, sir.

Q Could you estimate how many shots you heard, or that you saw, after you arrived in front of that second house?

A No, sir.

Q Approximately?

A Why, there was quite a few. I couldn't say how many.

Q Well, would you say there were - -

MR. DARROW: Well, just a minute.

MR. MOLL: Probably that would be leading.

Q You could not give the court and jury any approximation of the number of shots that you heard?

A No, sir.

Q Or the shots that you saw?

A No, sir.

Q Was that the reason that you stopped?

A No; the police stopped us. A policeman stopped me.

Q A uniformed police officer?

A Yes, sir.

Q Were there other persons in that immediate vicinity?

A There was some there, yes, sir.

Q How many would you say?

A I couldn't say.

- Q Now, so that we will perfectly understand your testimony, you came down from in front of your house, which is on the corner of Garland and Goethe, and walked down the east side of the street?
- A Yes, sir.
- Q Now, this is probably new to you: This map shows the intersection of Charlevoix and Garland Avenue, this being the Sweet house on the northwest corner. Here is your house, that you indicate by your testimony that you stopped in front of. Am I right (indicating on map)?
- A Yes.
- Q Here is the store?
- A Yes.
- Q Here is the entrance on the corner of Charlevoix and Garland. Did you pass any people as you approached that corner?
- A Officers were chasing them back and I passed some of them.
- Q You came along quite a long block, you say?
- A Yes, sir.
- Q It took you a minute or two minutes?
- A It took all of two minutes, I think; I wouldn't say for sure.
- Q Did you pass people going in the opposite direction from you?
- A Well, now, I could not say.
- Q Were there other persons coming in the same direction?
- A I think they were going the same way. I won't say for sure. I know I passed people.
- Q Was there anything particularly to attract your attention

to the people that you may have passed?

A No, sir.

Q When you got down in front of the second house, you say you stopped?

A Yes, sir.

Q There was a police officer there?

A Yes, sir.

Q Had there been any further shooting at that time?

A There was shooting right then.

Q There was shooting at that time?

A Yes, sir.

Q So that you were stopped then by this police officer, as the second volley of shots was fired?

A Yes, sir.

Q Now, about how many people were right there around you at the time you were stopped, at the time these shots were fired?

A I couldn't say.

Q Could you estimate that?

A No, sir.

Q Approximately?

A I couldn't; I didn't pay any attention to those people.

Q Now, then, your attention was attracted across the street to the Sweet house?

A Yes, sir.

Q Where you say you saw fire?

A Yes, sir.

Q From guns?

A Yes, sir.

Q Did you see any persons across the street in front of the Sweet house?

A I don't think there was any. I won't say.

Q You were not looking that way?

A I was looking upstairs.

Q By the way, where was this fire coming from that you saw?

A The front window upstairs.

Q One window, or more than one window?

A Well, there was two different shots, like. I don't know whether it was one window or two windows.

Q I see. From where you were stopped, or where you stood, could you see in between the Sweet house and the house adjoining it to the north? That is not shown on the diagram, but it is approximately in here (indicating on diagram). Were you able to look across diagonally so as to see the north side of the Sweet house?

A Well, I may have looked over there.

Q Well, did you?

A No.

Q I see. Well, then, to be more specific, did you see any firing from the side of the house, or from the rear of the house, and in between the houses?

A No, sir.

Q The only firing you saw was from upstairs windows?

A Yes, sir.

Q In front?

A Yes, sir.

Q Do you know whether anyone was hit as a result of the shooting?

MR. DARROW: Well, now, is that quite right?

MR. MOLL: I think so.

MR. DARROW: "As a result of it?"

MR. MOLL: Yes, I think so.

MR. HAYES: I think we will object to that, your Honor.

MR. MOLL: I will ask for a ruling.

MR. HAYES: If anybody was hit?

MR. MOLL: As a result of the shooting.

MR. HAYES: If anybody knows, first, that he saw shooting.

THE WITNESS: I seen a man -

MR. DARROW: Wait just a minute.

MR. HAYES: All that he saw was flashes. The man heard afterwards that somebody was hit. Of course, that cannot connect it up. He cannot give us his inferences from it.

MR. MOLL: Wouldn't it be within the observation of this witness, if he saw somebody fall, or hit and fall?

MR. DARROW: No.

THE COURT: You may have an answer to the question.

MR. MOLL: You may answer the question.

A I seen a man falling.

Q And where was that man standing?

A Well, he fell right by the porch.

Q The porch to which house, please?

A The first house.

Q We have been calling this first house the Dove house. That is 2913 and 2914 Garland. That is the house which joins the store to the north?

A Yes, sir.

Q You say he was standing there?

A Well, I seen him when he was falling, by the porch.

Q I see.

A There is two porches there on the house.

Q There are two porches. There is a porch that goes across entirely in front of the house, and two steps?

A Two steps.

Q Near which steps was he standing?

A Towards the north.

Q That would be where?

A Over on that side, (indicating).

Q You were up in front of this other house (indicating).

A Yes.

Q Did this man make any statement or say anything at the time he fell?

A Not that I heard.

Q Did you hear him moan or groan or do anything?

A No. The officers chased us back.

Q But you could clearly see him fall?

A Yes.

Q Did you later go up and see him where he was?

A Well, I did not know the man. I didn't know anybody around the neighborhood.

- Q Did you see an officer go to this man who had fallen?
- A He went. There was five or six went, I think. I won't say. They put a flashlight in his face.
- Q Did you go up and view the body, and look at the man?
- A No, I didn't get near.
- Q Did you see anyone else shot?
- A No. I heard of a man shot, but I didn't see anyone.
- Q You didn't see anyone else shot?
- A No.
- Q Do you know whether this man who was shot, was dead, when he was taken away from there?
- A Do you mean dead at the time?
- Q Yes, when he was taken away.
- A From the looks of him, I thought he was dead.
- Q Did you see blood coming from his mouth?
- A He had a pipe in his mouth.
- Q He had a pipe in his mouth?
- A Yes.
- Q Had you been in the vicinity of the Sweet house earlier in the evening?
- A No, sir.
- Q Had you been in the vicinity on the day previous, on the 8th?
- A I just came by, coming from work; I never stopped.
- Q Coming from work on the 8th?
- A The day before.
- Q Well, that was the 8th. Did you pass the house, coming from work on the 9th, the evening of the shooting?
- A Yes, sir.

Q I presume you take the Charlevoix car, or you came from Charlevoix?

A Yes, sir.

Q What time did you come from work and pass the house on the 9th?

A About 5:30.

Q Was there anything at that time that attracted your attention, or which did attract your attention to the house?

A No, sir, there was no one around there.

Q Did you see any uniformed police officers at the time?

A Yes, sir.

Q Were there any other persons over in front of the house, ^{the} on Charlevoix Avenue side of the house?

A I didn't notice any then, only people walking by, the same as myself.

Q Were there persons congregated in the street?

A Not then.

- Q So that there was nothing then to attract your attention to the Sweet house, the evening of the shooting, at 5:30 when you passed?
- A No, sir.
- Q You did not return until later one when you heard shots?
- A Yes, sir.
- Q Did you know Dr. Sweet?
- A No, sir.
- Q Had you heard any talk relative to his moving into the house?
- A Why, I heard some of the neighbors around talking.
- Q When had you heard that?
- A Well, I couldn't say. It was quite a while before, when somebody said the lady sold the house. I don't know when that was.
- Q When you say "quite a while", do you mean a matter of weeks or months?
- A I think it was a month or two, I won't say for sure.
- Q A month or two?
- A Yes.
- Q You had heard no talk in the meantime?
- A No, sir.
- Q You heard no talk on the 8th?
- A Only the fellow who came home with me; we come along, and we said to a cop, "Did anybody move in?" and he said "I don't know."
- Q You heard no talk on the 9th?
- A No, sir.

Q You had no reason to go in the direction of the Sweet house, from your home, except that you heard the shooting coming from that direction?

A That is all.

Q Were you armed at the time you went down the street?

A No, sir.

Q Was your brother armed?

A No, sir.

Q Did you see anyone on the street who was armed?

A No, sir, nobody. We didn't even have our hat or coat on.

Q Except for the fact that you were stopped by a police officer in front of the second house north of the store, did you see any other disturbance, or any disturbance?

A No, sir.

Q Did you see anything thrown in the neighborhood, in the direction of the Sweet house?

A No, sir.

Q Did you see any persons go in the direction of the Sweet house?

A No, sir.

Q Either while you were going down the street, or after you had stopped, and the shooting commenced?

A Only policemen.

Q Did you see the police enter the house?

A There was a patrol wagon pulled up, and then they all got out, and then they all went in.

Q That of course was some time after the shooting?

A Yes, sir.

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Q About how long after?

A I could not say.

Q Did you see anyone leave the Sweet house before the arrival of the patrol?

A No, sir.

MR. MOLL: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Mr. Burns, what is your business?

A Chauffeur.

Q For whom?

A Dodge Brothers.

Q Dodge Brothers?

A Yes, sir.

Q Been working for them long?

A Four years, - - that is, at Dodge Brothers.

Q How long have you been a chauffeur? For about how long.

A I don't care exactly.

Q I don't know. I drove the first Packard, one of the first Packards, for the D. U. R. I was there for fifteen years.

Q How long have you lived where you live now?

A About two years.

Q Do you own the place?

A My sister owns it.

Q Where were you born?

A Detroit, on Rivard Street.

Q How do you spell your name?

A B-u-rn-s.

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Q And Russell, is the first name?

A Yes, sir.

Q Has your sister owned the place long?

A Two years.

Q Are you a member of the Waterworks Improvement Club?

A My sister.

Q Do you know how long she has belonged?

A Well, when it started.

MR. MOLL: Objected to as immaterial. It would not affect the credibility or interest of this witness.

MR. DARROW: It might.

THE COURT: Objection sustained. He has not answered, as to whether or not he belongs.

MR. DARROW: I beg pardon.

THE COURT: He has not answered the question, whether or not he belongs.

MR. DARROW: No. He said before -- I think he said no, but his sister does.

THE WITNESS: My sister.

THE COURT: That was his answer, his sister. But, Mr. Darrow asked you, do you belong?

A No. You have got to be a property owner, I guess.

MR. DARROW: What?

A I thought you had to be a property owner, I don't know.

MR. DARROW: I guess you have to be.

Q Did you attend any meetings of the club?

A No, sir.

Q You never attended any, over to the schoolhouse?

A I was working nights, or working overtime, and I never could get down there.

Q Well, on this particular night, the 9th of September, what time did you get home from work?

A About 5:30.

Q And you came home on the street car?

A Yes, sir.

Q Where did you get off?

A Garland.

Q When you got to that corner, you saw policemen around Dr. Sweet's house?

A Yes, sir.

Q And you saw people on the streets?

A There was people walking, the same as I was.

Q You did not notice who was there, did you?

A No, sir.

Q You did not pay any attention to that?

A No, sir.

Q You knew why the policemen were out there, I suppose?

A Sir?

Q You knew why the policemen were out there?

A Yes, sir.

Q It was a little early for the time people got home from work, wasn't it, five thirty?

A Well, that was the time I got home. I don't know.

Q You knew about what time people got home in that neighborhood, didn't you?

A I don't know my neighbors. My mother has been sick

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for two years, and I have been taking care of her.

Q Didn't you ever notice what time your neighbors get home?

A No, sir. I don't know any of them.

Q You regularly came in about that time yourself?

A Yes, sir.

Q And you walked up on the east side of Garland?

A Yes, sir.

Q Wouldn't it be easy for you to get the measurement from the street, where he lives, the house where he lives, down there (addressing Mr. Toms)?

MR. TOMS: Oh, yes, I suppose so.

MR. DARROW: I will take your word for it. I do not need to get it right now, but Monday.

MR. TOMS: Do you want it now or Monday?

MR. DARROW: Any time. Monday will be all right.

Q (By Mr. Darrow): You were giving your attention pretty well in these days to your mother's condition?

A Yes.

Q Quite sick, is she?

A She died two weeks ago.

Q And that was probably your main concern at the time?

A Yes, sir.

Q As to her condition?

A Yes, sir. We had to stay up nights with her. We could not afford to have a nurse.

Q I suppose, about this time she was getting worse all of the time?

A Yes, sir, she has been sick four years.

Q You knew she was rather near death at the time?

A Yes, sir.

Q So, I suppose that was mainly what you were thinking of, the night when you came home, and through the evening?

A I always tried to get home as soon as I could.

Q You got your supper, and, when somebody came downstairs, you went out?

A They lived downstairs - -

Q Somebody lived on the next floor?

A Yes, sir.

Q You went down, and who was it that came in the automobile?

A A man named Kirker.

Q A friend of yours?

A Well, he works at Dodge Brothers. He just come by. He lives up on the corner of Mack, and he was coming home.

Q He lives in that neighborhood?

A About twoblocks away.

Q Well, while you stood there, you heard shots, is that it?

A Yes, sir.

Q And it sounded as if it was south of you?

A Yes, sir.

Q And perhaps west?

A Yes, sir.

Q You could not tell where they came from, except it sounded in that direction?

A Yes, sir.

Q Did people all come out then, people in the street, going that way?

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- A Well, I didn't notice. I hurried right down there.
- Q You didn't pay any attention?
- A I didn't pay any attention.
- Q You don't know whether there were machines parked along the street?
- A I couldn't say.
- Q Or anything about how many people were there?
- A No, sir.
- Q And you were stopped by the police?
- A Yes, sir.
- Q As you went down?
- A Yes, sir.
- Q And all of the rest were stopped?
- A Yes, sir.
- Q Did they finally let you by?
- A I didn't go no further.
- Q You were stopped right there by that house, when you were there?
- A By the second house.
- Q Well, now, was that where the man was who was shot?
- A He was by that first house in back of the store.
- Q You were stopped, after you passed his house?
- A I didn't pass his house.
- Q I just want to be sure I am right about this. Here is the two flat building, and adjoining that is another house. This is the store (indicating on map)?
- A Yes, sir.
- Q And then there is a two flat building there?

A Yes.

Q And adjoining that is a house, where this man was? That is as you understand it, isn't it?

MR. MOLL: No, that is not his testimony.

MR. DARROW: How?

MR. MOLL: That is not his testimony.

MR. DARROW: Well, wasn't this man struck in front of this house that I am pointing to now?

MR. MOLL: That is what he said, yes.

MR. DARROW: Well, that is what I am referring to, 2912 and 2914; the man was struck there, in front of that house.

Q (By Mr. Darrow): Now do you mean you were stopped before you got to the house or after you got to the house?

A Well, before I got to the house.

Q Then you were stopped up here somewhere (indicating on map)?

A No, just about that line (indicating).

Q About here?

A Yes.

Q That is a lot line there?

A That is about where I was stopped.

Q You never did get down to where he was?

A After everything was all over, I walked over that way.

Q You were stopped before you got to the house?

A Yes.

Q And the others were stopped?

A Yes, sir.

Q There was a policeman there keeping them back?

A Quite a few policemen.

Q Do you know about how many?

A I don't know.

Q Will you say six or seven, or five or six, or wouldn't you want to say?

A I couldn't say. There was a whole lot of them.

Q Where did you say you were when you heard the second shots?

A The house next to where he was.

Q You mean the house next to it, from your place?

A Yes, sir.

MR. TOMS: No, no. He said the house next to where he was.

MR. DARROW: Well, we will get him right, anyway.

Q You were in the house north of where this man was shot?

A In front of it, yes, sir.

Q Now, where were you when you heard the shots, the second shots?

A I was right up there.

Q What?

A I was coming right there by the house when they started shooting.

Q You were coming by the house north of where he was shot?

A Yes, sir..

Q And just a little ways from where he was?

A Well, the house line -- about thirty feet I should judge, the two houses are.

Q So you heard this shooting, the second shots that you described --

A Yes, sir.

Q -- when you were about thirty feet north of where the man was?

A Yes, sir.

Q And you saw something that seemed to be the fire from a gun coming from the front window upstairs of the Sweet house?

A Yes, sir.

Q And when the man fell immediately after, you assumed it was from a bullet from some gun there?

A Yes, sir.

Q Did the police push you back before or after the second firing?

A I was not there at the first.

Q I know.

A So I don't know what they done.

Q Would it be before or after the second -- before the two guns?

A They were pushed back, then.

Q They were pushed back before that, weren't they?

A I just got there when they started shooting, and they started pushing them back.

Q You don't know when they did start pushing them back?

A No, I don't.

Q You don't know whether there were any automobiles parked along the street as you went up there or not?

A There was some.

Q There were some?

A Yes.

2 2:10

BOX 2

Box/File

- 2:4 Detroit. Recorders Court. Charge of the Court,
Judge Frank Murphy, 13 May 1926, pps 481-513
- 2:5 Detroit. Recorders Court. Transcript of testimony,
6 Nov 1925, Volume 2, pps 152-191
- 2:6 Detroit. Recorders Court. Transcript of testimony,
6 Nov 1925, Volume 2, pps 192-231
- 2:7 Detroit. Recorders Court. Transcript of testimony,
6 Nov 1925, Volume 2, pps 232-281
- 2:8 Detroit. Recorders Court. Transcript of testimony,
6 Nov 1925, Volume 2, pps 282-319
- 2:9 Detroit. Recorders Court. Transcript of testimony,
7 Nov 1925, Volume 3, pps 320-368
- 2:10 Detroit. Recorders Court. Transcript of testimony,
7 Nov 1925, Volume 3, pps 369-418
- ✓ 2:11 Detroit. Recorders Court. Transcript of testimony,
7 Nov 1925, Volume 3, pps 419-472
- 2:12 Detroit. Recorders Court. Transcript of testimony,
9 Nov 1925, Volume 4, pps 473-512
- 2:13 Detroit. Recorders Court. Transcript of testimony,
9 Nov 1925, Volume 4, pps 513-552
- 2:14 Detroit. Recorders Court. Transcript of testimony,
9 Nov 1925, Volume 4, pps 553-592
- 2:15 Detroit. Recorders Court. Transcript of testimony,
9 Nov 1925, Volume 4, pps 593-645
- 2:16 Detroit. Recorders Court. Transcript of testimony,
10 Nov 1925, Volume 5, pps 646-687
- 2:17 Detroit. Recorders Court. Transcript of testimony,
10 Nov 1925, Volume 5, pps 688-730
- 2:18 Detroit. Recorders Court. Transcript of testimony,
10 Nov 1925, Volume 5, pps 731-772

BOX 3

Box/File

- 3:1 Detroit. Recorders Court. Transcript of testimony,
10 Nov 1925, Volume 5, pps 772-814
- 3:2 Detroit. Recorders Court. Transcript of testimony,
10 Nov 1925, Volume 5, pps 815-855
- 3:3 Detroit. Recorders Court. Transcript of testimony,
11 Nov 1925, Volume 6, pps 856-907
- 3:4 Detroit. Recorders Court. Transcript of testimony,
11 Nov 1925, Volume 6, pps 908-957

Q Do you know how many?

A No, because they took the man and put him in a machine out there.

Q In a machine that stood there?

A I wouldn't say it stood there or not.

Q Now, you went up to where the man was, didn't you?

A Right up by him?

Q Yes.

A Well, I stood and looked at him when he was seated against the porch.

Q Did you see him fall?

A Well, I seen him when he was falling.

Q Do you know which way he fell?

A No. The cop started pushing me back then.

Q You thought he was dead at the time?

A He looked like it, I don't know.

Q Then you went right back to your mother, did you, right after that?

A Yes, sir.

Q You did not stay around there and look any?

A No.

Q You went home?

A Five or ten minutes, something like that.

Q There were a good many people gathering around him?

A Oh, yes. They were coming fast.

Q And you went back home?

A Yes.

Q Let's see, did you say that you stayed until after the

colored people were taken out of there, out of Dr. Sweet's home?

A They took a lady out of the front door, and that is all they took out of there, and then I went home.

Q Now, are you sure that you heard shots before you left your house?

A Yes, sir.

Q Do you know how many?

A No, sir.

Q Have you any idea how many?

A No, sir.

Q When you went down towards the corner of Charlevoix and Garland, you walked, and walked fast?

A Yes, sir.

Q And then you heard some more shots?

A As I got there.

Q What?

A As I got there.

Q Do you know how many?

A No, sir.

Q You haven't any idea?

A No, sir.

Q Have you any idea how long the shooting lasted?

A No, sir.

Q A very short time, wasn't it?

A It did not seem long.

Q Oh, you could not tell us anything and be sure that you are right about the length of time or the number of shots?

A No.

Q You would want to be careful what you said, in testifying here, of course, because you would not want to testify unless you knew?

A No, sir.

Q You are quite sure you heard shots before you left that machine?

A Yes, sir.

Q Did anybody else go down with you? I believe you said your brother did?

A My brother.

Q Did he come down out of the house?

A He was out there.

Q He was out there?

A Yes.

Q What became of the automobile there?

A The automobile?

Q Yes.

A I don't know.

It

Q What was there when you went away?

A It was there when I left.

Q And you don't know what had become of it?

A No, sir.

Q Was it the same kind of a noise that you heard before you left the machine, that it was after you got down there?

A You mean the shooting?

Q Yes.

A Yes, sir.

Q Are you familiar with the sound of guns?

A No, I never shot a gun in my life, I never owned one.

Q You have never been around much where they were shooting?

A No, sir.

Q Not if you knew it, I suppose?

A No. I don't want to be.

Q Did you hear any stones?

A No, sir.

Q Or breaking glass?

A No, sir.

MR. DARROW; That is all.

REDIRECT EXAMINATION

BY MR. MOLL:

Q Pardon me, Mr. Burns, just a minute. I forgot the name of the man that you say stopped in his car in front of your house?

A Kirker.

Q Kirker?

A Yes.

Q A man that you knew from Dodge Brothers?

A I rode to work with him in the morning, but I did not come home at night with him.

Q Do you remember why he stopped?

A No.

Q Did you have any talk with him at all?

A He just come to talk.-

Q Did he make any reference to the Sweet house, or what

was going on down at the corner of Charlevoix and Garland?

A No.

Q He said nothing about that?

A He just had come to talk. I just came out. He blew the horn, and just as I got there, the shooting was, and I went down the street.

Q And which direction was he going at the time?

A He was going towards Mack.

Q That was going north?

A Yes, sir. I don't know if he come past the house, or through Goethe, I don't know. He was stopped there, and blew the horn, and I came out.

Q And nothing was said at all?

A No, sir.

MR. MOLL: That is all.

MR. DARROW: Just one moment.

RECROSS EXAMINATION

BY MR. DARROW:

Q Do you know how many policemen were pushing the people back down there?

A No, sir.

Q Do you know about how many?

A I couldn't say. There was quite a few. I don't know how many.

Q You would not say whether there was three or four or five or six?

A No, sir, I could not say.

MR. DARROW: All right, that is all.

MR. MOLL: That is all, sir.

THE COURT: You are excused.

(Witness excused.)

E B E R A. D R A P E R, was thereupon called as a witness on behalf of the prosecution, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOLL;

Q What is your full name?

A Eber A. Draper; Eber Albert,

Q Draper?

A Yes, sir.

Q Where do you live, Mr. Draper?

A 2625 Garland.

Insert p. 436

Q 2625?

A Yes, sir.

Q That is which way from Charlevoix?

A South.

Q North or south?

A South.

Q South of Charlevoix?

A Yes.

Q So that, to get from your home to Charlevoix, it would be necessary for you to pass the Howe School, is that right?

A I am on the opposite side of the street.

Q Yes. I mean you are on the west side, I take it?

A Directly across from the school.

MR. DARROW: What school did you say?

MR. MOLL: The Howe School.

MR. DARROW: Is that the one on the corner?

MR. MOLL: Yes. It is marked there.

MR. DARROW: Oh, yes (examining map.).

Q (By Mr. Moll): You say you live directly across from the Howe School?

A Yes.

Q Do you live in an apartment?

A No, sir, in a single dwelling.

Q South of the apartment house on the corner?

A Yes, sir.

Q How long have you lived in that neighborhood please?

A About seven years.

Q You are a married man, are you?

A Yes, sir.

Q You live there with your family?

A Yes, sir.

Q I presume you know, or you are familiar with the northwest corner of Charlevoix and Garland?

A Yes, sir.

Q Where the Sweet bungalow is?

A Yes, sir.

Q Were you near that on the evening of September 9th?

A I was in front of my home.

NOVA 10-11

Q You were in front of your home?

A Yes, sir.

Q That was how far from the corner, would you say?

A I think there is two lots in between our lot and the corner, which would make it about seventy feet to the corner.

Q Well, then, you must be near to the apartment, then?

A No, sir.

Q Well, here is the diagram of it. This is Garland, and that is Charlevoix. Here is the Sweet house and there is the grocery store. There is the Howe school. And I understand on this corner, on the southwest corner is an apartment house?

A Yes.

Q Then, you lived down Garland?

A I lived the third house from the corner.

Q The third house from the corner?

A Yes, sir.

MR. DARROW: You mean from the corner of Charlevoix?

A Yes, sir.

Q (By Mr. Moll): And you were over here on the west side of the street?

A Yes, sir.

Q You say you were out in front of your house?

A Yes, sir.

Q And was your attention attracted at that time to any shooting from the Sweet house? ✓

A Yes, sir. ↓

Q On the corner?

A Yes, sir.

Q What were you doing at the time, and who was with you?

A Standing on the lawn.

Q Were you talking with someone or were you alone?

A I believe there was someone right there at the time; I don't remember who it was though.

Q You were just standing there by yourself as far as you can remember?

MR. DARROW: Well, now, wait a minute.

Q (By Mr. Moll): You were not talking with anyone; you were not there with anyone that you can remember?

A No, sir.

Q How did you happen to be there, or why were you there?

A Well, it was curiosity I suppose.

Q Had your attention been attracted to the Sweet house earlier in the day or evening? Had you passed the house before, on that day?

A No, sir.

Q Or, had you been near the house earlier in the evening?

A No, not nearer than the corner.

Q When had you been to the corner?

A That was earlier in the evening.

Q Was that when you came from work?

A No, sir. I did not pass there when I came from work.

Q Had you gone to the corner for some purpose?

A Yes, sir.

Q Did you go to the store?

A Yes, sir.

Q Had your attention then been attracted to the Sweet house?

A No.

Q Well, did you notice any uniformed police officers there?

A Yes, sir.

Q And you saw them at that time?

A They were there all evening.

Q But you noticed them when you went to the store?

A Yes, sir.

Q Was that the only thing you noticed about the house, or that you gave your attention to?

MR. DARROW: I think I ought to object to that as being leading. I do not like to object to questions but --

MR. MOLL: I will withdraw it, to save argument, and to save time.

MR. DARROW: He ought to describe what he saw.

Q (By Mr. Moll): Was there anything else that attracted your attention to the house besides the uniformed police officers?

A No, sir.

Q Did you see any people on the sidewalk in front of the Sweet house, or on the Charlevoix side of the Sweet house (when you went to the store?)

A None in front of the Sweet house.

Q Did you see a number of persons walking in the street?

A Yes.

Q Were they walking, or were they congregated any place?

A Mostly walking.

Q Did you see any persons congregated on the street at the time that you went to the store?

A No.

Q I mean in the vicinity of the Sweet house?

A No.

Q So that I presume you went back to the house and had your supper, and came out at the time of the shooting, is that right?

A I had had my dinner, yes.

Q And about what time was the shooting?

A Oh, somewheres around 8 o'clock.

Q I see. Was it dark at the time?

A Not real dark, no.

Q Was getting dark?

A Yes, sir.

Q Were the street lights lit?

MR. DARROW: If you know?

A I don't know.

MR. DARROW: I think that question ought to be asked first, as to whether he knows.

MR. MOLL: Well, he says he does not know.

Q About how many shots did you hear?

A Oh, well, I judge somewhere around 12 or 15.

Q Were they fired in rapid succession, or were they fired at intervals?

A Very close together.

Q The shooting lasted about how long would you say? All we want is your best judgment of just what happened?

A It may have been ten seconds, it might have been twenty seconds.

Q About ten, possibly twenty seconds?

A I should judge so.

Q Did you then go in the direction of the Sweet house?

A No, sir.

Q When you heard these shots, did you see any fire?

A Yes, sir.

Q Where did the fire come from?

A Out of ~~the~~ windows on the Charlevoix side of the Sweet bungalow.

Q On the Charlevoix side?

A Yes, sir.

Q Here is a picture, Exhibit No. 3 which has been introduced in evidence, showing the Sweet house. Now, you recognize that as a picture of the house, do you?

A It looks very similar to it, yes, sir.

Q Now, will you indicate so that the jury can see on that picture where you saw the fire coming from; just turn it around, please?

A This window here (indicating).

Q Those windows there; do I quote you correctly?

A Yes.

Q Did you say "those windows" or "this window?"

A This window.

Q You are indicating the large window that is over the bay window which I believe is in the dining room, and it is the large window nearest Garland or the nearest the front of the house, is that correct?

MR. DARROW: That is right.

Q You could plainly see that window, couldn't you, from where you stood out in front of your house?

A Fairly plain, yes, sir.

MR. DARROW: What is that?

A Plainly plain, on account of darkness.

Q Well, I mean, there was nothing from where you stood on the street to obstruct your view of the house?

A No, sir.

MR. DARROW: There may be a question here as to what is called the dining room, I don't know.

MR. MOLL: Well, I won't argue about that. Call it anything you want. Put an "X" on there, or whatever you want.

MR. DARROW: I am satisfied. It was above the bay window?

MR. MOLL: That is the window there (indicating).

MR. DARROW: Above the bay window.

MR. MOLL: The first big window shown on that side of the house.

MR. DARROW: Nearest Garland Avenue?

MR. MOLL: Yes.

MR. FRIEDMAN: Better show it to him.

MR. HAYES: Don't we want that marked there?

MR. MOLL: Yes, if you wish. The witness said that window right there.

MR. DARROW: That one (indicating on photograph)?

MR. MOLL: Yes. That is right is it, Mr. Witness? Mr. Hayes has marked that picture.

THE WITNESS: Yes.

MR. MOLL: Allright. Now, you say that you saw that window, and that portion of the house from where you

stood on Garland Avenue, south of Charlevoix?

A Yes, sir.

Q Had you moved from your original position at the time you saw that flame, or were you still standing in the same place.

A I was standing in the same place.

Q Had you moved up towards Charlevoix?

A No, sir.

Q Did you see any flame coming from the front of the Sweet house?

A No, sir.

Q How many spurts of flame did you see coming from the side of the house?

A It seemed to me there was about five or six.

Q About five or six?

A Yes, sir.

Q And that of course was simultaneous with the sound of the shots that you heard come?

A Yes, sir.

Q As I understand it, you did not go further in the direction of the Sweet house?

A No.

Q You stayed where you were. Now, prior to the shooting, just before the shooting, as you stood out in front of your house, you could see the intersection, could you? That is, I mean you could see up Garland Avenue, in a northerly direction?

A Yes, sir.

Q Could you see any people on the sidewalk or in the street?

A Why a few scattered around.

Q What were they doing?

A Walking around.

MR. DARROW: What?

MR. MOLL: What is that?

A Walking.

Q Walking?

A Yes, sir.

Q Did you see any persons congregated any place? I am speaking now of just before the shooting?

A Not that I know of.

Q Not that you know of?

A No.

Q And as I remember it, you said you were standing practically alone, and possibly there was some other person near you?

A Yes, sir.

Q Do you know whether there were people across the street in the school yard?

A There was a few.

Q Who were they, do you know?

A I don't know.

Q What were they doing?

A Standing.

Q Standing?

A Yes, sir.

Q Were they men or were they women or were they children, if you know?

A I don't know.

Q Sir?

A I don't know. They might have been both.

Q Was there any reason for you to regard those people particularly who were over there in the school yard?

A No, sir.

Q Were they doing anything to attract your attention to them?

A No, sir.

Q Did you see anyone at any time just before the shooting who was armed?

A No, sir.

Q Did you see anyone just before the shooting who threw anything in the direction of the Sweet house?

A No, sir.

Q Or who trespassed?

A No, sir.

Q Or who went on the premises?

A No.

Q Did you see anyone enter or attempt to enter the Sweet house?

A Before the shooting?

Q Yes.

A No.

Q Did you see anyone leave the Sweet house?

A Not before.

Q Were you there when the police arrived?

A Yes, sir.

Q I presume that was just a short time after the shooting?

A A very short time.

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Q Did you see the police go into the house?

A Yes, sir.

MR. MOLL: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Your name is Draper?

A Yes, sir.

Q What is your business, Mr. Draper?

A Salesman.

Q Salesman?

A Yes, sir.

Q What do you sell?

A Tools.

Q You mean to dealers?

A To factories.

Q You sell tools to factories?

A Yes, sir.

Q Machines?

A For machinery.

Q How long have you been in that business?

A About two years and a half.

MR. DARROW: If any of the jurors have any difficulty hearing the witness or counsel, I wish you would indicate it. Do you hear alright? Is there any juror who is having any difficulty hearing?

A JUROR: I wish you would talk a little louder.

MR. DARROW: I will try to make myself heard. And you try to speak so that the last juror can hear you.

THE WITNESS: All right.

Q What business were you in before that?

A Factory.

Q Working in a factory?

A Yes, sir.

Q What kind of work?

A Superintendent at the Continental.

Q How long have you lived where you are living now, 2625
Garland Avenue?

A About seven years.

Q You have a family?

A Yes, sir.

Q Do you own your own place?

A Yes, sir.

Q Do you belong to the Water Works Improvement Club? ✓

A Yes, sir.

Q When did you join?

A I don't know. When it first started.

Q When did it start?

A I don't know.

Q Well, now, don't you think you could tell us if you tried?

A No, I don't think I could.

Q Well, about when did you join it?

A It must have been back the middle of the summer.

Q The middle of last summer?

A Something like that.

Q When did you hear that Dr. Sweet was going to move into that
neighborhood?

A That was a long time ago too.

Q You jointed the club at the time you heard it, didn't you?

A I think it was afterwards.

Q Why, you know, don't you?

A No.

Q You don't know whether you joined the club at the time you heard it or not?

A No.

Q Well, you think it was after you heard it that you joined the club?

A I think it was.

Q Did that have anything to do with your joining the club?

A It possibly did.

Q Oh, tell us now, don't you know? Is there any reason why you should not tell us if you know?

A No.

Q Well, did it?

A Yes.

Q And you joined the club so as to do what you could do - I am not saying you did right or wrong - but to do what you could do to keeping that a white district?

MR. MOLL: Just a minute. I think if the court please, that calls for a conclusion on the part of the witness, and it will call for hearsay, as to what the purpose of the club was, or the Improvement Association. Now, if they were incorporated, I presume they had bylaws; and I presume they had some definite policy; and I have no reason to fear the policy of this Improvement Association going into evidence;

but the version of this witness, or one member, may be a dangerous proposition, if there is a definite policy, and I presume there is.

THE COURT: Well, he has not asked that, Mr. Moll.

MR. DARROW: I was not asking him that.

MR. MOLL: I think the question, if the court please, anticipates that,

MR. DARROW: I do not think it anticipates that at all.

THE COURT: Objection overruled. You may answer the question. Read the question.

(The question was read by the reporter).

MR. MOLL: Well, now, "To do what you could," if the court please, calls for a conclusion; and "to keep that a white district", calls for another conclusion.

MR. DARROW: Well, to aid in keeping it a white district, Is that right?

MR. MOLL: Just a minute.

A Yes.

MR. DARROW: I have changed it.

THE COURT: The answer may stand.

MR. DARROW: He said yes.

Q Did you attend any meetings?

A Yes, sir.

Q How many?

A I think it was three.

Q How many of them were before this trouble, down there?

A TWO.

Q Where were they held?

A One was held in the garage, and the other at the school.

Q What garage?

A North of Charlevoix, I don't know what garage it is, four or five doors up the alley.

Q When was it held?

A I don't know.

Q About when?

A About the time that the association started.

Q When was the one held at the school?

A I don't know.

Q Well, couldn't you tell us, if you tried hard?

A I am trying hard.

Q Allright. Now, can you tell us about when that one was held in the school house?

A I would say a couple of months before this shooting.

Q How long after you joined?

A What was how long after I joined?

Q What?

A You say, how long after I joined?

Q Yes, when was the shooting held, how long after you became a member of it?

A It was the same night. I joined it on the night of the meeting.

Q Anything said there with reference to keeping the district free from colored people?

MR. MOLL; Just a minute, objected to as immaterial and too remote; and it won't affect the credibility or

interest of this witness as far as the shooting is concerned.

(MR. DARROW: I will submit it to the court.)

MR. MOLL: And a further objection that it calls for hearsay as to what was said.

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THE COURT: Objection sustained.

MR. DARROW: I am not asking him to repeat it.

THE COURT: I have sustained the objection.

MR. HAYES: Your Honor, before you sustain that objection, and because counsel may wish to ask more questions along that line, I wonder if this ought not to be considered: There is testimony that things were comparatively peaceful that night. Now, if we bring out that there was an association formed for certain purposes, and that they agreed to do certain things, and they were present on that night, it throws very considerable light on the character of the testimony as to conditions being peaceful on that night.

MR. MOLL: I think it is immaterial.

MR. HAYES: I think it is material. It is not hearsay, if I understand it.

THE COURT: Yes, or no may not be hearsay. But don't you think it would be if he stated what was said?

MR. HAYES: Supposing I should give an illustration, your Honor; supposing a number of men get together, and they say -

MR. TOMS: We are interested in hearing what counsel has to say, over here.

MR. HAYES: I beg your pardon. Suppose a number

of men get together and make an agreement to do certain things, whether it is lawful or unlawful. Then on a certain night they all get together, and put these things through, and there is some shooting or something else happens, and they are all gathered here and there, around there, and there is a menacing atmosphere in the neighborhood; does counsel mean to say that every act of that kind, on that night, if it can be proved, is not important? I think it is very important. It is a part of the attitude of the mind of these men who got together.

THE COURT: Mr. Moll's objection is not as to any agreement nor anything of that kind, but it was as to what was said, if anything was said on the subject. I will sustain the objection to the question that has been asked. You will not be limited on cross examination, in an effort to prove that there was any such agreement, with this witness or any other witness.

MR. HAYES: When I use the word "agreement", I mean any sort of a common understanding.

THE COURT: Or purpose?

MR. HAYES: Yes.

THE COURT: Allright.

MR. DARROW: I will save an exception to your Honor's ruling.

Q Did anybody speak at that meeting?

MR. MOLL: I object to the question until the time and the place of the meeting is fixed.

Q Well, that meeting at the school house, that you referred

to, after you joined.

MR. MOLL: I would like to have the time fixed.

MR. DARROW: You will have to get your witness to fix it.

MR. MOLL: No, I am not examining him.

MR. DARROW: Alright.

MR. MOLL: Object until the time and place are definitely fixed, if rebuttal is necessary.

MR. DARROW: You don't need to rebut this man.

MR. MOLL: I don't know whether we will need to or not.

THE COURT: What was the time, Mr. Witness?

A The date?

THE COURT: Yes.

A I don't know.

THE COURT: Fix it as definitely as possible.

I do not think you have to be exact about it.

Q (By Mr. Darrow): You stated that you joined this Association, as you believe, after you heard that Dr. Sweet was coming into the neighborhood, didn't you?

A Yes, sir.

Q That is true, isn't it?

A Yes.

Q And the meeting was held on the night you joined?

A Yes, sir.

MR. MOLL: What was your answer?

A Yes.

Q Now, that is as near as you can get to the date?

A Yes.

Q Did anybody speak at that meeting?

A Yes, sir.

Q Was there any reference made to keeping the district free from colored people?

MR. MOLL: Just a minute, that is objected to for the same reasons I have already stated. It is the same question in a different form.

THE COURT: The objection is overruled. You may have an answer.

A Yes.

Q How many people were present at that meeting?

A I think it was estimated around 700.

Q Mostly from that neighborhood?

MR. TOMS: This was not the meeting in the garage, was it?

A No, this was at the school.

MR. TOMS: At the school?

A Yes.

MR. MOLL: That was the second meeting, then?

MR. DARROW: Probably the first. He did not specify.

MR. MOLL: Well, now, there is just the danger of it. The witness just got through testifying, on cross examination that the meeting at the garage was held at about the time this Improvement Association was organized.

That was the first meeting thereafter.

MR. DARROW: No.

MR. MOLL: Let me finish, please.

There was a subsequent meeting held at the school house, he claimed, about two months before this shooting. That apparently is the subsequent meeting. That is just why I want counsel to fix the time and place of these meetings.

MR. DARROW: I understood this witness, your Honor, to say that he joined the night he went to the school house.

MR. MOLL: If there is any misunderstanding, I think we ought to refer to the testimony.

MR. DARROW: I think I have a right to find out.

THE COURT: Is that correct, witness?

A Yes, sir.

Q (By Mr. Darrow): You joined the night you attended the meeting at the school house?

A Yes, sir.

Q And you attended the meeting at the garage?

A Yes, sir.

Q And you never attended any meetings until after you joined, did you?

A I don't know which meeting was first.

Q Did you attend any meetings before you joined the organization?

A I don't know.

Q You don't know?

A No.

Q You don't know whether the garage meeting was after the school house meeting or before it?

A No, sir.

Q How near the time was it of the school house meeting?

A It was within two or three weeks.

Q Within two or three weeks?

A Yes, sir.

Q And you cannot say whether it was before or after?

A No.

Q Or whether you were there, whether you went to the garage meeting or not?

A (Witness nods in the negative).

Q Do you think you went there without being a member?

A I possibly might have, yes.

Q How many were present at that meeting?

MR. MOLL: We are speaking now of the gargge meeting?

MR. DARROW: The garage meeting now.

A I would say 25 or 30.

Q Were you a member of any committee of that organization?

A No.

Q You never were a member of any committee?

A Of this committee?

Q Yes.

A No.

Q Of that organization?

A No.

Q you were not a member of the committee of five?

A No.

Q Men and women both were present at those meetings were they not?

A Yes, sir.

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Q And was the meeting at the garage, a committee meeting?

A I think that was kind of a get-together meeting.

Q Did you ever attend any other meetings?

A Yes.

Q When?

A I don't know when it was. It was down at the Oddfellows Hall, Amity Hall, I think that is.

Q When?

A Very shortly after this shooting.

Q Don't you know the exact date that you attended it, in connection with the shooting?

A No.

Q You are sure about that?

A I am sure.

Q It was the day after, wasn't it?

A I don't know.

Q Was it day or night?

A Day or night'

Q Yes.

A It was at night.

Q And you cannot tell us, as you sit there now, whether it was the day after the shooting or not?

A No.

Q How soon after the shooting?

MR. MOLL: I submit he has answered that; he says he does not know.

Q (By Mr. Darrow): You said, "Shortly after", didn't you? That is the nearest you can come to it?

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A Yes.

Q Was the shooting discussed at that meeting?

MR. MOLL: Objected to.

Q (By Mr. Darrow): Or, referred to?

MR. MOLL: Objected to, on the ground that it is hearsay. It is a subsequent date.

THE COURT: He may answer.

MR. MOLL: It would not affect the interests, attitude or credibility of the witness.

THE COURT: He may answer the question.

A I believe it was.

Q (By Mr. Darrow): You say you believe it was. Don't you know?

A Well, yes.

Q Is there any reason why you do not want to answer it directly?

MR. MOLL: That is objected to.

A No.

Q It was discussed. Did you take any part in it, in the discussion?

A No.

Q Was there ever any meeting held at the store, of this committee?

MR. MOLL: What store?

THE WITNESS: What store?

MR. DARROW: The grocery store, at the corner of Garland.

MR. FRIEDMAN: They describe that as the Morning Star store.

Q (By Mr. Darrow): Do you know the Morning Star Store?

A On the corner?

Q Yes.

A I know where it is.

Q Was there any meeting held there at any time to your knowledge?

A No.

Q Is the proprietor of the Morning Star store a member of the organization?

MR. MOLL: Objected to as hearsay, unless he knows.

MR. DARROW: I do not expect him to answer the question, unless he knows.

THE COURT: He may answer.

A I don't know.

Q (By Mr. Darrow): Was he at either of those meetings that you attended?

MR. MOLL: I object to it as immaterial.

THE COURT: Objection overruled.

A I didn't see him.

Q (By Mr. Darrow): You were opposed to colored people coming into the district, of course?

MR. MOLL: Objected to as calling for a conclusion, and immaterial.

THE COURT: Objection overruled.

A Yes.

Q (By Mr. Darrow): And are now?

A Yes, sir.

Q Do you know the exact date that you heard of Dr. Sweet's

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having bought this house?

A No.

Q Do you know who lived there before he bought it?

A No.

Q Do you know whether it was owned by a colored man before he bought it or not?

A I do not.

Q Did you ever see a colored man there?

A No.

Q When did you first hear of his having moved into this house?

A The same day that he moved in.

Q What day was that?

A I don't know.

Q When with reference to the shooting?

A I couldn't say.

Q Well, now, if you would think a minute, couldn't you tell?

A I would not know whether it was a week or a month before.

Q It was the day before, wasn't it?

A JUROR: I can't hear.

MR. TOMS: Speak up so that these jurors can hear you.

A I don't know.

MR. TOMS: The jurors cannot hear you, and neither can I hear you.

Q (By Mr. Darrow): You don't know?

A No.

Q Did you see him when he moved in?

A No.

Q Were you there at home?

A No, sir.

Q You just heard that?

A I think my family told me.

Q Were you around the street there on the eighth, the day before?

A I was home.

Q Were you out on the street?

A Yes, sir.

Q Did you see any policemen?

A Yes, sir.

Q Did you see anybody else but policemen?

A I judge there was others there too.

Q How long a time were you out on the street?

A I don't know, possibly an hour or so.

Q What time of the day?

A Around in the evening.

Q What time in the evening?

A Until ten o'clock.

Q Whereabouts were you?

A Around home.

Q Where?

A 2625 Garland.

Q Right in front of the house?

A Yes.

Q Alone?

A Not all of the time.

Q Who else was there with you?

A I don't recall who they were.

Q How many?

A About five.

Q Where were they from?

A I don't know, along the streets.

Q Do you know their names?

A I don't recall any of them right now.

Q Are you trying to recall them, or trying not to?

A There was one boy there, Newell Ferry.

Q Who?

A Newell Ferry was there.

Q How old is he?

A About 17 or 18.

Q Is that the only name you knew?

A And my boy.

Q How old is your boy?

A 17.

Q Anybody else that you knew?

A I don't recall now.

Q Tell us if you can recall any more?

A I don't.

Q Were you talking about anything when you stood there?

A Very likely (we were.) *I was.*

Q What?

A Why, different things. I don't recall what we were talking about.

Q Do you recall anything you were talking about?

A No.

- Q Were you talking about ^{the} colored people living there at the corner?
- A I don't recall.
- Q Were you talking anything about the policemen?
- A I don't know.
- Q You don't know whether that subject was ever mentioned, is that right?
- A I couldn't swear to it, no.
- Q Could you swear it was not?
- A No.
- Q What were you there for, an hour?
- A Nothing particular.
- Q Now, Mr. Witness, do you mean to tell me that you do not know why you were standing there an hour?
- A I was not standing there an hour.
- Q Well, you were out there an hour you said, didn't you?
- A Yes, I might have been there ~~xxxxxxxx~~ longer.
- Q What?
- A I might have been there longer.
- Q It might have been an hour, and a half, or two hours?
- A Yes, sir.
- Q Well, what is your best judgment?
- A I would say around two hours.
- Q Around two hours?
- A From my porch, down and around.
- Q "From your porch, down and around" where?
- A Down around the block.
- Q How far around the block did you move?

A Not far.

Q Well, how far?

A Possibly the length of the lot.

Q Like a policeman on a beat, up and down?

A Yes.

Q Going back and forth for an hour and a half, is that right?

A I would not say I was like a policeman on a beat.

Q Were you unlike a policeman on a beat? You were going up and down the street for an hour and a half, were you?

MR. TOMS: He did not say that.

MR. MOLL: On his own property.

MR. DARROW: Yes, his own property, is that right?

A Yes.

Q What for? Can't you tell us what for?

A I didn't have anything to do.

Q Is that the only answer you can give me?

A Curiosity, I suppose.

Q Curiosity about what?

A The crowds...

Q The crowd where?

A People on the streets.

Q And about the people who occupied the Sweet house?

A I didn't see them.

Q Well, you knew they were there, didn't you?

A I heard they were.

Q Yes. And, the curiosity about that situation, is that right?

A I guess so.

Q You knew that you were on the street at that time, all that time, on account of this situation, of the colored man moving in there, didn't you?

A That was the excitement.

MR. MOLL: That was the what? Please take your hand down from your mouth.

A That was the excitement.

MR. MOLL: That was on the 8th, is that right?

MR. DARROW: The 8th.

Q That is what you understand, isn't it?

A The 8th?

Q That is what you understand, isn't it? I am asking you about the 8th?

A The 8th, yes. It was all about the same.

MR. TOMS: What do you mean by "it is all about the same"?

MR. MOLL: Do you mean the day before?

THE WITNESS: The 8th and 9th.

MR. DARROW: The 8th and 9th, he means.

THE WITNESS: Practically --

Q (By Mr. Darrow): You mean the 8th and 9th was about the same?

A Yes.

Q You understand, these eleven people are on trial, charged with murder, don't you?

A Yes, sir.

Q Are you reluctant to tell what you really know, where a life sentence is in danger?

MR. MOLL: I object to that, as being prejudicial.
It is done for no other purpose.

MR. DARROW: It is not done for that purpose.

MR. MOLL: It is done to prejudice the testimony
of this witness.

THE COURT: Strike out the words about a life
sentence.

Q (By Mr. Darrow): Are you reluctant to tell us what you
know, and tell it fully and frankly?

A I am telling you all I know.

Q Are you reluctant to tell it?

A What do you mean?

Q Well, I do not think I could explain the word. You know
the meaning of the word, don't you?

A No.

Q All right. What time did you go to bed that night?

MR. TOMS: What night?

MR. DARROW: The 8th.

A I would say around half past ten.

Q (By Mr. Darrow): You were out on the street until half
past ten, weren't you?

A I do_n't think I was out that late.

Q How late were you out on the street?

A I judge around ten o'clock.

Q And mixing with people, weren't you?

A Not much.

Q Some?

A Some.

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Q Did you talk with any policeman?

A I don't think so.

Q Do you know?

A No.

Q Any policeman talk with you?

A On the 8th?

Q Yes.

A I talked with one, I don't know whether it was the 8th or the 9th.

Q Do you know who it was?

A No.

Q Did he ask you your business there?

A No.

Q Did he tell you to move on?

A Yes, sir.

Q What time of night was that?

A I should judge that was around half past eight.

Q Did you move on?

A I was on my own property.

Q You told him you were on your own property, did you?

A Yes, sir.

Q And stayed right there?

A Yes, sir.

Q Did he ask you why you were there?

A No.

Q He did not make any inquiry at all, except to tell you to move on?

A That is all.

MR. MOLL: I cannot see, if the court please, where

the conversation between the policeman and the witness, the night before the shooting, has any bearing on this case.

THE COURT: The answers may stand.

Q (By Mr. Darrow): Well, now, what time did you leave there on the morning of the 9th, leave your home?

A Generally around seven o'clock.

Q How did you get downtown, or wherever your work was?

A Drove.

Q Which way did you drive?

A Out the alley to Charlevoix, and down Charlevoix.

Q Did you go past the corner of Charlevoix and Garland?

A No.

Q You went the other way?

A Yes, sir.

Q Did you take a look up at the corner?

A I might have.

Q Did you?

A I don't know.

Q Did you take a look before you left, out towards the corner of Garland and Charlevoix?

A I don't recall.

Q You don't know whether you looked over that way before you left, or looked after you started? You don't know anything about that at this time?

A I imagine I did. I don't recall though whether I did.

Q What time did you get back?

A Possibly five or six o'clock in the evening.

Q How did you come back?

- A Drove back.
- Q Where did you get into your place?
- A I went down, and I came in the alley from the south, south of the block.
- Q What did you do first when you got back?
- A Drove the car into the garage.
- Q And then what?
- A Went into the house.
- Q All right, what next?
- A I don't recall that there was anything out of the ordinary.
- Q Ate supper or dinner, whichever you want to call it?
- A I suppose.
- Q What time did you get through with your dinner?
- A I got through about half past seven, some time around there.
- Q Did you read any in the meantime?
- A I don't remember whether I read the paper that evening or not.
- Q Did you go outside of the house before you ate supper?
- A I don't know.
- Q What time did you sit down to supper?
- A I don't know what time it was.
- Q Did anybody come to see you before you went out?
- A I don't think so.
- Q Did anybody telephone you?
- A No.
- Q Did you call anybody up?
- A Not that I recall.
- Q What?

A Not that I recall.

Q Will you say you did not?

A I did not.

Q And you got home, from half past five to six, and then you got through with your dinner by half past seven, and then where did you go?

A Stayed at home.

Q Where?

A In the house and out on the lawn.

Q When did you go out on the lawn?

A Shortly after dinner.

Q Who was with you?

A I don't recall.

Q Your boy?

A Was this the 8th?

MR. MOLL: No, this was the 9th.

MR. DARROW: The 9th.

A The 9th?

Q All of this was the 9th?

A I don't think the boy went out on the lawn with me, no.

Q He was not there with you on the lawn?

A Afterwards, yes.

Q Who else was there?

A This Ferry boy.

Q Where did he live, the Ferry boy?

A I don't know.

Q What?

A I don't know where he lives.

Q Same boy that was there the night before, wasn't he?

A This Ferry boy?

Q Yes.

A I think he was there only one night.

Q Didn't you tell us that he was there the 8th?

A Is this the 8th you are talking of now?

Q No, I am talking about the 9th, and I hope you are.

A I don't think he was there the 9th.

Q Was he there the 9th?

A I don't know.

Q You don't know whether he was there one night or two nights?

A No, I do not.

Q But you know he was there?

A He was there one night I know.

Q Who else was there the 9th?

A I don't recall who they were.

Q You said the "same as the 8th", didn't you?

A I will.

Q The same people there the 9th who were there the 8th?

A I don't know.

Q You don't know who was there either night with you, excepting
and
your boy, that Ferry boy?

A Yes, sir.

Q Either night. What were they doing?

A Standing out there.

Q How long did you stand out there?

A Oh, I don't know, an hour I suppose.

Q What?

A About an hour.

Q Did you get off of your premises?

A Walking.

Q How far?

A Oh, about to the corner, to the corner of my lot.

Q You mean to the corner of your lot, or the corner of the
street?

A The corner of the lot.

Q You stuck right around that lot, did you?

A Yes.

Q What were you there for?

A I was staying around, that is all.

Q Seeing what?

A Staying around.

Q Had you any purpose in being there?

A I was at home, that is all.

Q I asked you if you had any purpose in being out there for that length of time; don't you know, Mr. Witness, whether you had any purpose in being there?

A What purpose did I have for being at home?

Q Well, I was trying to let you tell that. Had you any purpose in being out there that length of time; had you any purpose connected with the affair that was going on there in reference to Dr. Sweet?

A No.

Q You never thought of Dr. Sweet?

A Oh, I thought of this.

Q Talked about him that night?

MR. TOMS: Witness, if you will take your hand down, I think we will all understand you better.

A I don't recall.

Q You don't know whether you talked about Dr. Sweet or not?

A I imagine we did, yes.

Q Did you talk about colored people moving in the neighborhood?

A Possibly.

Q Did you talk about the police?

A Possibly.

Q And the people gathered on the street, did you talk about them?

A Possibly we did, if there was any there.

Q Did you talk about anything else?

A I don't recall of any subject that we discussed.

Q And that was why you there wasn't it, on account of those

subjects? Or can't you tell me whether that was the reason or not?

MR. MOLL: I submit if the court please, the witness has already answered the question. He said he was at home,

--

MR. DARROW: Oh, no.

MR. MOLL: And he was "sticking" around.

THE COURT: You may have an answer.

Q That was why you were there, wasn't it?

A Yes.

Q Do you know any reason for taking you so long to answer that question, except that you do not want to answer it?

A No.

Q That is the only reason that you know of, isn't it?

A Yes.

MR. MOLL: I object to this as improper cross examination.

Q Now, there were policemen around there, who would go wherever knots of people gathered together and separate them, weren't there?

MR. MOLL: Will you fix the time?

MR. DARROW: I mean on the 9th, between half past seven and the time this shooting occurred?

A Yes, sir.

Q For that whole time, that hour, or whatever it was, that was happening?

A Yes, sir.

Q There were people across the street on the school house

grounds?

A Yes.

Q There were people across the street?

MR.TOMS: I can hear you, but I cannot hear the answer.

A Yes, sir.

Q You don't know how many?

A No.

Q And you did not try to find out?

A No.

Q You don't know what they were there for?

A No.

Q There were people around the apartment building, between you and Charlevoix, were there not?

A I would say there was.

Q Do you know how many?

MR.MOLL: Just a minute. Do you know whether there were? Did you see people there?

A People next door was on their lawn.

MR. MOLL: That is not what Mr. Darrow asked you. He asked you if there were people out in front of the apartment house, between you and Charlevoix?

A I think there was a couple of officers there.

MR.MOLL: Well, now, is that your answer? Do you think that, or do you know if there were?

A I know there were.

Q Do you know whether there were other people there?

A On the corner?

Q On the corner.

A No.

Q Do you mean there were not, or that you do not know?

A I imagine that there were people on the corner.

Q Yes.

A Walking back and forth.

Q Did you see the officers go to any of them on the corner?

MR. MOLL: Pardon me. I would like to have a ruling on that if the court please. I do not think either side wants the witness to imagine. We are both -

THE COURT: You may correct that on redirect examination.

MR. DARROW: I think, if your Honor please, on cross examination, that the word "imagine", may have a different meaning, with different people. It may mean "think."

THE COURT: On your redirect examination, you can straighten out anything that you want to.

MR. MOLL: I do not know that there will be any. My point was simply this if the court please, that the use of the word "imagine" makes it very apparent that the witness is not testifying from his personal observation.

MR. DARROW: He used that word.

THE COURT: He has been asked to testify from his personal observation. You may correct it anyway you want to, on redirect examination.

Q Did you look down Garland Avenue towards the north, beyond the store while you were there?

A Yes.

Q There were people there, were there not?

A Yes, sir.

Q There were people on the vacant space alongside of the store, were there not?

A I don't recall whether there were.

Q You cannot say one way or the other about it?

A No.

Q Were there any people on the west side of Garland, in front of Dr. Sweet's house?

A I don't know.

Q You don't know whether there were or not?

A No, sir.

Q Did you see any policeman there?

A Yes, sir.

Q And whether there were others, you do not know?

A I don't know.

Q Do you know how many policemen there were around there?

A The 9th?

Q At night?

A No, I do not.

Q Any idea?

A Eight or ten.

Q Were the policemen keeping the crowd back?

A Yes.

MR. MOLL: I object to the use of the word "crowd."

MR. DARROW: Why? This is cross examination.

MR. MOLL: There has not been any evidence up to date that there were crowds in any particular spot.

MR. DARROW: You must have been asleep, if you say there was no evidence -

MR. MOLL: I am not asleep either.

MR. DARROW: If you say there is no evidence on that -

MR. MOLL: Where was the crowd?

MR. DARROW: Well, now, I object to counsel prompting the witness.

MR. MOLL: I am not prompting the witness.

MR. DARROW: If you ^{Care to} object, that is all right.

MR. MOLL: I am representing the State, and I am going to continue to do so.

MR. DARROW: All right, sure. You are doing it well.

THE COURT: You may answer the question.

MR. DARROW: He has answered the question.

THE COURT: It may stand.

MR TOMS: Nobody knows what the answer was. *cut to*

MR. DARROW: Read the answer.

(The answer was read by the reporter)

Q (By Mr. Darrow): That was your answer, was it?

A Yes.

MR. MOLL: Will you please take your hand down, and talk so that the jurors can hear you. Otherwise, there is no purpose in your testimony. *to 471*

Q Whereabouts did you see the policemen keeping the people back?

A Wherever they were collecting, three or four in a place.

Q Well, if there had been ten or a dozen in a place, they

were keeping them back, weren't they?

A I didn't see that many.

Q You did not?

A No.

Q Did you see that many on the school house grounds?

A Yes.

Q Did you see that many up north on Garland?

A I don't think so.

Q How?

A No.

Q So you think that there were not that many up beyond the store, is that right?

A Around the store?

Q Up beyond the store.

A How far beyond?

Q The first building beyond - the second building beyond, right in here (indicating on map)?

A No.

Q You say there were not ten or a dozen there?

A I don't believe there was.

Q Did you count them?

A No.

Q Did you try to estimate them?

A No.

Q Did you go up that way?

A No.

Q Do you know whether there was any around the corner from you on Charlevoix, at the front of that apartment building?

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A No.

Q What is that?

A No.

Q You did not go there?

A No.

Q On that night you did not move from your own property, is that right?

A I think that is right.

Q Any reason why you did not?

A No.

Q What?

A No.

Q No reason at all?

A No.

Q Did you hear any glass break in Dr. Sweet's house?

A What is it?

Q Did you hear any glass break in Dr. Sweet's house?

A No.

Q Did you hear any glass break in Dr. Sweet's house?

A No.

Q Did you hear the sound of any stones thrown against it?

A No.

Q You were right there and you were listening, weren't you?

A I was there.

MR TOMS: Where? What do you mean by "right there"?

MR DARROW: Right in front of your house.

A Yes.

Q And you were listening, weren't you?

A Couldn't help but listen.

Q Couldn't help but listen?

A No.

Q Well, you were wanting to hear what was going on, weren't you?

A Yes sir.

Q You didn't hear either of the things I speak about?

A No.

Q You did hear some shots fired?

A Yes sir.

Q When?

A It was around 8 o'clock, possibly a little after.

Q Did you hear one volley or two, all fired together practically?

A Very close together.

Q About how much time between the first, if you could distinguish between the first and the last?

A Possibly five or ten seconds.

Q And practically all together?

A Yes sir.

Q Is that right?

A Yes sir.

Q You had heard no noises from the direction of that house prior to those shots?

A No.

Q That apartment house on the corner, does it come clear out to the street?

A On Garland?

Q Yes.

A No.

Q How close to it?

A About twenty or thirty feet.

MR DARROW: That is all.

MR MOLL: That is all.

(Witness excused)

THE COURT: We will adjourn court until Monday morning at 9:30.

(Whereupon an adjournment was taken until Monday, November 9, 1925, at 9:30 o'clock a.m.)

11
2:11
R J

STATE OF MICHIGAN
IN THE RECORDERS' COURT FOR THE CITY OF DETROIT

THE PEOPLE
-vs-
OSSIAN SWEET,
et al.

)
)
)

Testimony taken before Hon. Frank J. Murphy,
and a Jury, on Monday, November 9th, 1935.

APPEARANCES:

Parties present as before.

VOLUME IV.

ARTHUR WEINBERG
2334 E 68TH ST
CHICAGO 49 ILL

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Monday, November 9th, 1925.

9:30 o'clock A. M.

(Court convened pursuant to adjournment. All parties present.)

- - - -

G E O R G E A. F A I R B A I R N, called as a witness in behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Your name is George Fairbairn?

A George A. Fairbairn.

Q You are a police officer connected with the detective bureau?

A Yes, sir.

Q And were you on the 9th of September, this year?

A Yes, sir.

Q On the night of September 9th, some time after 8:30 P. M., were you at the northwest corner of Garland and Charlevoix?

A Yes, sir.

Q How did you get there?

A With the reserve flyer.

Q Reserve flyer is a motor car, is it?

A Yes, sir.

Q Carrying a number of officers?

A Carrying fourteen men.

Q Where is the dispatch?

A Headquarters here.

Q That is, the building right across from this?

A Yes, sir.

Q And did you go to this place in response to a call, or dispatch?

A In response to a call from the operator.

Q Now, when you got there, what did you see and what did you do?

A Well, when I got there I met Inspector Schuknecht, in front of the house, and he said there had been two men shot, and he wanted everybody in the place arrested, so I went up there and rang the doorbell with Inspector Schuknecht, Sergeant Mahlmeister, and four patrolmen. Mrs. Sweet opened the door and I told her she was under arrest. And then the rest of the patrolmen handcuffed all the men in the place, and I searched the house, that is, started through the rooms, and got all the other men lined up in the front room.

Q What do you mean by the "other men"?

A That was all through the house. Some of the men were upstairs, and some was in the front room.

Q Some were downstairs?

A Downstairs, yes, sir.

Q You put them up in one place?

A Yes, sir, put them up in the front room.

Q And then did you search the house?

A Yes, sir.

Q What happened to Mrs. Sweet?

- A Why, Mrs. Sweet stayed right with me most of the time, walking through the house backward and forward.
- Q When you finished, what happened to her?
- A I sent her down in Ford car with patrolman Wolfe to Headquarters.
- Q And the other prisoners were taken down?
- A I couldn't tell you. I didn't take them down there.
- Q I see. Did you search the house, did you?
- A Yes, sir.
- Q Did you find any weapons?
- A Yes, sir, I found three revolvers.
- Q Will you come down to this table, Mr. Fairbairn, and see whether any of the weapons that are on this table were those that were found by you in that house?
- A (The witness went down to the table.)
- Q Now, you have picked out this number of weapons, the one a pearl handled Colt Revolver, C. A. 38, bearing number - - number on that is - - 140,553?
- A No, that is not the number. The number of that is 253.
- Q There is such a number on it, anyway. There is also Number 253 on the catch releasing the chamber?
- A Yes, sir.
- Q This revolver is marked People's Exhibit - -
- MR. MOLL: 25.
- MR. TOMS: 25, is it?
- Q I show it to you, and ask you if you found that gun in the Sweet residence up in the northwest corner of Garland and Charlevoix?

A Yes, sir.

(Exhibit 25 was then marked.)

Q Where did you find this gun?

A Under a mattress in the front room upstairs, mattress was laying on the floor.

MR. TOMS: I offer it in evidence.

MR. DARROW: No objection.

THE COURT: Is there any objection?

MR. DARROW: No, your Honor.

THE COURT: It may be received.

Q The second of the weapons that you have picked out is a Colt - - is a police positive, 38 special, Colt, blue steel, this gun is marked Exhibit 26. The revolver bears the number 332-5513. Mark it Exhibit 26. Did you find that gun in that house?

A Yes, sir.

Q Where?

A I found that gun under a pillow in the bed, in the front room upstairs.

MR. DARROW: Where did you say?

A Under a pillow on the bed in the front room upstairs.

MR. TOMS: I offer this exhibit in evidence.

MR. DARROW: All right.

THE COURT: It may be received.

Q Another gun that you have picked out is a Remington automatic, bearing No. 5-P.A. 51233, marked Exhibit 27, black automatic. Did you find that gun in the house?

A Yes, sir.

Q Where?

A In pillow case on bed in the front bedroom, upstairs.

MR. TOMS: I offer it in evidence. No objection?

MR. DARROW: All right. No objection.

THE COURT: It may be received.

Q Those are all the guns that you yourself found?

A Yes, sir.

Q Did you see any other officers find guns?

A Yes, sir, Patrolman Leach, found a gun under the mattress of the same bed that I took the revolver.

Q Could you identify that shotgun?

A No, I didn't look at it at all.

Q You didn't take the number of it, or anything, of that gun?

A No, no.

Q Did you see that?

A No, I didn't.

Q Did you see any other officers find guns?

A No, they was in the other part of the house.

Q I see. Was that double-barrelled shotgun?

A Now, I couldn't tell you that.

Q That is up to Patrolman Leach?

A Yes.

Q Were these revolvers loaded when you found them?

A Yes, sir, they all had six shells, and the automatic had clip of six shells and one in the barrel. The rest had six shells.

MR. DARROW: Just a minute. I don't understand

the thing. Do you say any one of these was loaded at any time?

A That one. There is the one in the barrel here, and here is the clip (indicating).

MR. DARROW : There might be somebody on the jury who wasn't a gunman either. I would like to know.

A That is the clip (indicating).

Q This is the clip that you have taken out of the handle of the gun?

A Yes.

Q That contains the magazine?

A Yes.

Q Full of cartridges?

A Six shells in that, and one in it.

MR. DARROW: Let me ask him to make sure.

Q Did you find any ammunition in that house?

A Yes, sir, one little leather bag containing about 35 to 40 38 caliber shells in it.

Q Tan leatherbag with collapsible metal top and clasp.

MR. DARROW: What do you say it contained?

A About thirty-five to forty ^{bullets} 38 ^{1/4} - - 38 caliber.

MR. DARROW: Yes.

MR. TOMS: Mark Exhibit 38.

Q I show you this bag, is that the one you found in this house?

A Yes, sir.

Q Those are the shells that were in it when you found it?

A Yes, sir.

Q Where did you find it?

A In the gutter of the roof on the back porch.

Q Now, the back porch is the uncovered porch at the end of the hall on the second floor?

A Yes, sir.

Q And it was in the gutter?

A From the roof coming down. It extends about a foot and a half from the porch, the roof of the house --

Q And this was in the --

A In the gutter.

Q You mean the galvanized iron gutter that carries out the rain?

A Yes.

MR. TOMS: I offer Exhibit 28 in evidence. No objection?

MR. DARROW: No.

THE COURT: It may be received.

MR. DARROW: Those are loaded cartridges?

Q Did you find any brass shells of cartridges that had been fired?

A Yes, sir.

Q And where?

A Found three in the hallway upstairs, and three on the back porch.

Q Did you mark them?

A Yes, sir.

Q I am showing you eight, see if you can pick out the ones you found?

A (The witness then picked out some shells.)

Q Is that all of them?

A That is all.

Q (indicating)?

A Yes, that is one.

MR. TOMS: Exhibit 29 consisting of five 32's - - no, five 38 center fire brass shells, empty, and four 38-40, brass shells, empty. I offer them in evidence.

MR. DARROW: How did you get forty of them?

MR. TOMS: That is, different caliber, Winchester caliber. I offer them in evidence. Any objection?

MR. DARROW: No objection.

Q Now, tell us where you found these various shells?

A Found three of them on the back porch, and Lieutenant Schaldenbrand found two of them, handed them to me while I was ~~right there~~ in the gutter.

Q On the back porch?

A This here is the rail there, I never jumped over this rail, and I had three revolvers in the pocket. That is, them three and one of my own and I didn't want to step over this rail because I would drop them, so he handed them to me.

Q You saw him find them?

A Yes, was right there.

Q I show you these three, 38-40 Peter shells, and ask you if those are the three that you found on the back porch, or where you found them?

A Yes, sir, they were on the back porch.

Q And this 38-40 W. T. Company, 38-40 shell?

A Yes.

Q That was found in the gutter?

A In the gutter.

Q Where did you find these five 38's - ^A - /in the hallway, upstairs.

Q These are Smith & Wesson shells?

A Yes.

Q In the hallway on the second floor?

A Yes, sir, upstairs.

Q Now, I will show you about twelve Peters 38-40 cartridges, unfired, and ask you if you ever saw those before?

A Yes, sir.

Q Are they marked so that you recognize your mark?

A I marked the box.

Q Marked the box. Where did you find these?

A In cupboard.

Q In hall upstairs?

A Cupboard is built right into that.

Q Into the wall?

A Into the wall.

Q In the hall on the second floor?

A Yes, sir.

Q I mark this box Exhibit 30, and offer it in evidence.

MR. DARROW: No objection.

THE COURT: It may be received.

Q Yes, I didn't describe these right, Peters 38-55 shells?

A Yes.

Q That is Exhibit 30. What was the general condition of the house as you found it?

A Well, when we first entered the house, was all dark.

Q How much furniture?

A Well, there wasn't much furniture and in one bedroom upstairs there was a bed, and a trunk, two chairs, I think about --

Q Was the downstairs furnished?

A Well, in the kitchen, the kitchen was furnished, but the dining room wasn't, or the parlor wasn't.

Q Any rugs on the floors?

A Not that I know of.

Q Any curtains, I mean, drapes, I don't mean shades, curtains?

A I couldn't tell you that either.

Q Well, at any rate the house wasn't completely furnished?

A No.

Q Either upstairs or down?

A No.

Q Could you smell burnt powder in the house?

A Well, you could smell that there had been some shooting down in the house.

Q That is what I mean?

A Yes.

Q Any of the defendants talk to you?

A Why, only Mrs. Sweet, that is all.

MR. TOMS: Cross examination.

MR. DARROW: That is all. You asked if anybody talked to him. He said no?

MR. TOMS: Nobody, but Mrs. Sweet.

MR. DARROW: No cross examination.

- - -

A L M A R I O N W O L F E Called as a
witness in behalf of the People, having been first
duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Mr. Wolfe, were you a police officer of the City of
Detroit on the 10th - - 9th of September, this year?

A Yes, sir.

Q On the evening of that day, were you at the residence of
Dr. Sweet at Charlevoix and Garland?

A Yes, sir.

Q How did you go there?

A Police flyer.

Q From headquarters?

A Yes, sir.

Q Did you go in the house?

A I did.

Q Did you - - who did you go in with, if anybody?

A Well, Sergeant Fairbairn, Sergeant Mahlmeister and Patrol-
man Blasek and Leach.

Q And yourself?

A And myself and Inspector Schuknecht.

Q Who admitted you?

A Dr. Sweet and Mrs. Sweet.

Q When you got in, what did you do?

A We searched them and handcuffed; did not handcuff Mrs.
Sweet.

Q Keep your voices up. You searched them, did you?

A Searched them and handcuffed the prisoners we found in there.

Q Excepting Mrs. Sweet?

A Yes, sir.

Q She was not handcuffed?

A No.

Q Then, did you search the house?

A Yes, sir.

Q Did you search the persons of the people who were arrested?

A I searched one.

Q Searched one. Did you find a weapon?

A I did.

(Exhibit 31 was then marked.)

Q I will show you a Smith & Wesson, blue-steel revolver, 32-20 caliber, bearing No. 32,376, and ask you if you found that gun on the person of any one of the defendants?

MR. DARROW: What did you say that is, what make?

MR. TOMS: Smith & Wesson 32020.

A Yes, sir.

Q On which defendant?

A On Mr. Davis.

Q Did you mean to indicate that you had marked them in some way?

A By this number here.

Q By the number on the back?

A Yes.

Q - - 8544?

A Yes.

Q With seven diamonds set in it, and three empty diamond settings.

MR. DARROW: Get those out of there.

Q The gun was loaded, you say?

A Yes, sir.

Q Five shells?

A It was full

MR. TOMS: I offer Exhibit 31 in evidence.

MR. DARROW: No objection. Where are those three diamonds?

MR. TOMS: The what?

MR. DARROW: Three diamonds.

Q I will show you box of 30-32 center fire cartridges, marked 32, and ask you if you found those in that house?

A I did.

Q Where did you find them?

A Mr. Davis' pocket.

Q Then the loaded revolver and this box of cartridges were on the person of the defendant Davis?

A Yes, sir.

MR. TOMS: I offer Exhibit 32 in evidence.

Any objection?

MR. DARROW: No.

THE COURT: It may be received.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Officer, you know who Davis is, I suppose?

A Yes, sir.

Q You don't mind my bringing that out?

MR. TOMS: No.

Q He was a Federal officer, wasn't he?

A He was.

Q Not prohibition officer?

A Why, I understood he was a federal officer, but I didn't know at the time who he was.

Q In the narcotic department, wasn't he?

A That is what I understand.

MR. TOMS: That is all right.

Q That was your understanding anyway?

A Yes.

Q Now, were there any -- in the revolver of Davis' you say you found six shells, or five?

A Well, I don't -- it was full anyway.

Q It was full, wasn't it?

A Yes, sir.

Q The revolver was full, and none of them had been exploded?

A No.

Q And this package I hold in my hand, is that exhibit marked?

MR. TOMS: 32.

Q Marked Exhibit 32, was a package you took from Davis?

A Yes, sir.

Q And every cartridge in it was unexploded?

A Yes, sir.

Q These were found on his person?

A Yes, sir.

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MR. DARROW: That is all.

(Witness excused.)

- - - -

J O H N E. H A Y E S, called as a witness
in behalf of the People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Witness, you are a lieutenant of police of the City of
Detroit?

A Yes, sir.

Q Attached to what station or precinct?

A Black Hand Squad, Police Headquarters.

Q And would you explain what the black hand squad is?

A Look after the colored people, and the Italians.

Q On the night of September 9th, witness, were you at Dr.
Sweet's home on the corner of Garland and Charlevoix?

A I was.

Q How did you happen to go there?

A On a call that there had been a shooting there.

Q How did you go?

A By Ford touring car.

Q And who went with you? What other officers, if any?

A Detective John Smith.

Q Did you enter the house?

A I did.

Q Search it?

A I did not.

Q Were you present when other officers searched it?

A No, sir.

Q Did you go upstairs?

A No, sir.

Q Did you see the defendants arrested downstairs?

A I did.

Q Did you see any weapons found in the house that night?

A Yes, sir.

Q What were they?

A Rifle, a double barreled shotgun, and an old time rifle, and a suitcase full of shotguns shells and bullets. They were in the possession of Patrolman or sergeant - -

MR. DARROW: Now, Mr. Hayes - -

Q Leach?

MR. DARROW: Now - -

A Sir?

MR. DARROW: You say two rifles. Excuse me.

A Two rifles.

MR. DARROW: And one shotgun?

A And one shotgun.

Q Come down to this table, Lieutenant, and see if you can pick out the weapons that you saw?

A Saw the three here.

Q Those three?

A Yes, sir.

Q Go back to the stand. I will show you the 12-gauge shotgun-- maybe I can find out who made it - -made by the Vulcan Arms

Company, badly in need of oil - -

MR. DARROW: And gasoline too.

Q 256,994 on the stock. Well -- the same number elsewhere, double barrel twelve gauge shotgun. Did you see that gun in Dr. Sweet's house?

A Yes, sir.

Q The night of September 9th?

A Yes, sir.

Q Where did you see it?

A It was in the parlor downstairs. An officer had it.

MR. TOMS: I offer it in evidence.

MR. DARROW: All right.

MR. TOMS: I neglected to have this last gun marked.

Exhibit 33 is the shotgun which has been offered and received in evidence.

Q I show you Marlin safety rifle, bearing No. 40854.

MR. DARROW: It is a safety rifle?

MR. TOMS: What?

MR. DARROW: What is that safety rifle?

MR. TOMS: One that won't shoot until you pull the trigger, I guess.

Q Did you find that rifle in the Sweet house that night?

A It was, in the presence of some of the officers.

Q When you saw it?

A Turned over to me at headquarters.

Q Exhibit 34 - -

MR. DARROW: Made by Gillette?

MR. TOMS: What?

MR. DARROW: Made by Gillette?

MR. TOMS: No, it is a Gem. I offer it in evidence.

MR. DARROW: All right.

MR. TOMS: It will be received, your Honor?

THE COURT: Yes.

Q I show you Exhibit 35, a 38 W. C. F. -- that means Winchester, Rifle No. 89, 1295, did you see that rifle in the Sweet house that night?

A Yes, in the parlor, in charge of the Sergeant.

MR. TOMS: I offer Exhibit 35 in evidence.

THE COURT: It may be received.

MR. DARROW: All right. Are those the same guns that were testified to before? There were three altogether there, and that is all.

MR. TOMS: Yes.

Q I show you a brown leather bag marked Exhibit 36, containing an assortment of ammunition. I will ask you whether you saw that bag and the contents in the Sweet house that night?

A I saw that bag in their presence. The tag that was put on it, but I had no identification mark on the shells so that I could tell.

Q Was there ammunition in the bag when you found it?

A About the same amount as there is in this one here.

Q Were there different kinds, that is, shotgun shells and brass shells?

A Yes, sir.

Q But of course, you can't identify each particular shell?

A No.

MR. TOMS: I offer these - - the contents in evidence.

MR. DARROW: Well, I don't object. I don't know whether you ought to have each one marked or not.

MR. TOMS: What?

MR. DARROW: I don't suppose it makes any difference. Ought not somebody to count them and mark them? I don't know whether the Supreme Court might find that - - the record wasn't complete on it.

MR. TOMS: Well, suppose we - -

A (The witness): We have a check on them.

MR. DARROW: I don't object to it, your Honor.

MR. TOMS: We can offer an inventory by some other officer.

(Conversation was had between the court which was inaudible to the stenographer.)

Q Did you do that?

A I helped count them.

MR. FRIEDMAN: Can't we have an inventory made up and agree on it?

MR. TOMS: Before you get the count on these contents?

MR. DARROW: Have you got it now?

MR. TOMS: Shall we do it at intermission?

MR. DARROW: Yes. They may be offered, your Honor, with the agreement that ~~we~~ ^{they} prepare an inventory of what it contains, as a part of this evidence, so that they may be identified more fully, and the inventory can

be put in a little later.

THE COURT: It will be accepted when the inventory is made.

Q After you found this bag -- this bag with ammunition in it, you turned it over to whom?

A It was in charge of the Sergeant, and he brought it to headquarters and turned all over to the other officers and turned it over to me.

Q What did you do with it?

A I counted and Lieutenant Johnson checked it and took it and put it in the property room.

Q That is Lieutenant William Johnson, one of the officers in charge of this case?

A Yes, sir.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q What is your position on the police force?

A Lieutenant Detective.

Q These guns were in the hands of some other officers, when you got there?

A They were.

Q So -- you haven't said where they found them?

MR. TOMS: Yes, not the rifles.

MR. DARROW: The rifles, I mean.

Q Were the men handcuffed when you got there?

A They were -- I -- they were, and I had Dr. Sweet's handcuffs taken off of him. I talked to him separately

from the others for a few moments.

Q You had those handcuffs taken off?

A I did not. They belonged to the other officers who were there ahead of me.

Q I see. You had them taken off?

A Off of Dr. Sweet.

Q Yes. Were they handcuffed when they went to the station?

A Yes, sir.

Q How is that?

A Yes, sir.

Q Dr. Sweet included?

A No, sir.

Q How were the lights when you got in there?

A The lights were lit in the dining room -- were out in the parlor, and they were lit in the kitchen as I went out.

Q All the lights were turned on in the dining room?

A In the dining room, they were.

Q How were they upstairs?

A I did not get upstairs.

Q And these people were in the dining room when you got there?

A They were.

Q Did you give any instructions about the lights or do anything about them?

A Now, I only ordered one of the men there to get a wagon right away and have it come to the back door, and I stayed with the colored people until the wagon got there, and I took them out the back way and put them in the alley in the wagon and took them to headquarters.

- Q The lights remained until you left?
- A I believe they did.
- Q Or did you turn them out?
- A When I left the room they had -- I don't know how they were after.
- Q How is that?
- A When I left the room they were lit.
- Q I mean, up to the time that you left?
- A Yes, sir.
- Q Were there any other lights in the house except the one you mentioned when you got there?
- A Well, that is as far as I had got in the house. I stepped in the parlor, the lights were out, and I stepped into the dining room and these men were all on the left side of the building as I entered, with three or four lights lit in the dining room, wasn't lit up very well, and when I went out, to the kitchen, the light was on in the kitchen.
- Q You had been there earlier in the evening, hadn't you?
- A No, sir. I passed by there two days before that.
- Q How long before?
- A Two days.
- Q This was the 9th, you were there?
- A Yes, sir, on September 9th, about 9 O'clock.
- Q You passed by on the 7th?
- A On the 7th about two o'clock in the afternoon.
- Q You say you are on the Black Hand Squad?
- A Yes, sir.
- Q The black Hand look after the Italians and Negroes?

A Yes, sir.

Q Black Hand is an expression used in connection with negroes, isn't it?

A No, sir, with Italians.

Q I mean, Italians?

A Yes, sir.

Q But you lump the negroes in with them?

A That squad was organized some two years back, and shortage of room over there, we took the colored situation into that office, on account we had more room.

Q Yes. But of course the black hand is supposed, by other people, who are not Italians, to be an Italian association, isn't it?

A Yes, sir.

Q I guess that is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q When you got to the house there were other officers already in there and the defendants in custody?

A Yes, sir.

Q That is all, Lieutenant.

RECROSS EXAMINATION

BY MR. DARROW:

Q Just one question, officer. How were the shades when you got there?

A The shades were up on the Charlevoix Street side of the dining room. They were down in the front parlor.

Q Oh, they were up on the Charlevoix side?

A Yes, sir.

Q And the lights going full blast, were they?

A Yes, sir.

Q You ordered the shades to be pulled down, didn't you?

A No, I did- - at the last, I believe I did. I am not positive.

Q Oh, the Charlevoix side?

A Yes, sir.

Q You did that for protection, I suppose?

A Yes, sir. Well, there was a large crowd had gathered over on the flats, on the other side.

Q And the first thing you did, wasn't it, to order those shades pulled down?

A Well, I passed by the house on Charlevoix and saw the shades up; and I went in the front room, and I think I told some patrolman there to pull the shades down, and I waited there for a period of from fifteen minutes before a wagon had arrived, ten or fifteen minutes.

Q That is all.

(The witness was excused and then called back.)

CROSS EXAMINATION

BY MR. DARROW:

Q Will you just take the stand again? Your Honor, I am not sure that the question I shall ask him is proper cross examination. You may want to object, but I don't think you will. It is to save his coming back.

Q Officer, your name has been mentioned here before with some other policeman. Now, you needn't answer this question until counsel has a chance to object. I believe you were the first one who made any investigation in reference to Dr. Sweet's moving?

A Yes, sir.

MR. DARROW: You don't object to that?

MR. TOMS: No.

Q About how long before he did move did you - -

A I was investigating it for about a week and a half.

Q And you know Dr. Sweet, don't you?

A I do not. I didn't know him until that night.

Q Hadn't you seen him before that?

A No, sir.

Q No. I probably was mistaken then. Anyway, you found out about his moving?

A Yes, sir.

Q And you talked with various members of the department about it?

A I have.

Q With some of them? I mean, before?

A Yes, sir.

Q And your purpose, of course, was thinking he might need some protection?

A Through other people that - - that came to me. I offered him all the assistance there was, and was waiting for him to notify me when he was to move. The night before he moved his friend came to me and told me that the doctor

was moving in the morning. I immediately notified deputy chief of detectives, James McCarthy, about ten o'clock that evening previous to the night of the -- first day that he moved in.

MR. TOMS: On the night of the 7th?

MR. DARROW: On the night of the 7th.

Q Someone came to you from him and told you that he was going to move in the morning?

A Yes, sir.

Q So you notified the proper officers to be there?

A I did. I called Inspector Schuknecht at that precinct out there and informed him of the same.

Q Now, do I get you right, you sent word to Dr. Sweet to let you know the time he was going to move?

A Mr. John Roxborough did.

Q Who?

A Mr. John Roxborough was the one that informed me of the doctor's movements, and told me what was going on, and I delivered the proper message back to him to notify us when he was ready to move, so that we would be able to take care of him should any trouble arise.

Q And he did that?

A I believe so.

Q Was it the same man who came back and told you when he was going to move?

A Yes, sir.

Q Was he a member of the force?

A No, he is --

Q Colored man?

A He is.

Q Somebody that you knew perfectly well?

A Yes, sir.

Q You asked him to do it?

A No, he volunteered his services to me through Dr. Sweet's brother, the dentist.

Q Yes, that is the way it was. That is all.

(Witness excused.)

- - - - -

M A R V I N L E A C H, called as a witness, in behalf of the people, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

MR. DARROW: He didn't testify at the preliminary hearing?

Q Mr. Leach, you were a member of the Detroit Police Department on the 9th of September, this year?

A I was, yes, sir.

Q Did you go to the Sweet house at the corner of Garland and Charlevoix that night?

A Yes, sir.

Q Where did you leave from?

A First Precinct Station.

Q How did you go?

A On the reserve flyer.

Q You are a member of that squad?

A Yes, sir.

Q And when you got to the house, did you go in?

A Yes, sir.

Q Did you search, at least, a part of the house?

A Yes, sir.

Q I show you a German automatic revolver, bearing Number 115685, and the word "Germany" underneath it. Did you ever see that before (indicating)?

A Yes, sir.

Q Did you find it in the house that night?

A Yes, sir.

Q Where?

A Found it upstairs, little bedroom, in the drawer of the dresser.

MR. DARROW: What is that, drawer of what?

A Drawer of dresser.

Q Yes. On the Charlevoix Avenue side of the house?

A No, sir, on the north side of the house.

Q On the north side of the house. Was it loaded?

A Yes, sir.

Q Did you unload it?

A Yes, sir.

MR. TOMS: I offer it in evidence.

MR. DARROW: No objection.

THE COURT: It may be received.

MR. DARROW: Anything been shot out of that?

Q Was the clip full?

A No, sir.

Q How many shells in the clip?

A Four.

Q How many will it hold, do you know?

A I don't know.

Q I show you a double-barrelled shotgun, Exhibit 33, which is already admitted in evidence. Did you find that in that house?

A Yes, sir.

Q Where did you find it?

A Upstairs in the front bedroom, between the mattress and spring.

Q That is, under the mattress?

A Yes, sir.

Q I show you a twelve-gauged, Peters shotgun shell, discharged, did you find that in that house?

A Yes, sir.

Q Where?

A Same place, only lying on the floor, front bedroom upstairs.

Q Lying on the floor, near the bed where you found the shotgun?

A Yes.

Q Did you notice anything about the screen in that front bedroom?

A No, sir, I didn't.

Q Didn't.

MR. TOMS: Exhibit 37 is offered in evidence. No

objection?

MR. DARROW: No objection.

MR. TOMS: The court said it may be received.

Exhibit 38 is the discharged shotgun shell. I offer that in evidence.

THE COURT: It may be received.

MR. TOMS: Cross examine.

MR. DARROW: No examination, officer. That is all right.

- - - -

J O S E P H N E I G H B A U E R, called as a witness in behalf of the people, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Sergeant Neighbauer?

A Neighbauer.

Q Allen?

A Joseph.

Q Were you a police officer on the night of September 9th of this year?

A Yes, sir.

Q And in the evening of that date, were you in the vicinity of Garland and Charlevoix?

A Yes, sir.

Q What time did you go there?

A 3 P. M. in the afternoon.

Q Were you detailed there from that station?

A Yes, sir.

Q Were you a sergeant?

A Yes, sir.

Q In command of the detail there?

A Yes, sir.

Q How many men did you have?

A Eight.

Q And how long did you stay there?

A Why, I stayed there that night until 1:30 A. M.

MR. DARROW: Now, you are talking about the 8th?

MR. TOMS: No, the 9th. The night of the shooting?

A Night of the shooting.

Q From 3 in the afternoon until 1:30 in the morning?

A Yes, sir.

Q Did you have eight men all the time?

A I did up until about 7:30 somewhere around there.

Q Then, ~~some~~ were relieved?

A I were relieved.

Q Inspector Schuknecht was there?

A He was.

Q Lieutenant Schellenberger?

A Yes, sir, he was.

Q Did you see Deputy Superintendent of Police Sprott come by there?

A Yes, sir, I did.

Q About 8:30, did you hear some shooting?

A I did.

Q Just tell us what you saw from the time you heard the shooting and what happened, when you were - -

A I was standing on the southeast corner of Charlevoix and Garland, and I saw several shots fired from the back porch, and also from the front window. Then I went from there to the box at the corner of Hurlburt and Charlevoix and notified the station.

Q Which way is Hurlbut from Garland?

A Yes, sir.

Q Now, you were on the southeast corner. Is that the corner where the school is?

A Yes, sir.

Q You saw shots from the front of the house?

A From the front of the house and the rear, from the back porch.

Q MR. DARROW: On the Charlevoix side. Excuse me.

He said on the Charlevoix side. Excuse me. I didn't know you were going to ask it again. In which direction were the shots you saw from the rear of the house.

A They were fired towards Charlevoix.

Q Fired this way?

A Yes, sir.

Q That is the only direction you could have seen them?

A That is the only direction I could have seen them.

Q You couldn't see the persons who were doing the firing there?

A No.

Q Upon hearing the shots, you did what?

A I got on the running board of a car and went to the box at the corner of Hurlbut and Charlevoix Avenue.

Q That is, west?

A West of Garland.

Q In doing so, you passed on the south side of the Sweet house?

A Yes.

Q What happened as you were passing?

A That is when the shooting occurred from the porch, when I was passing on Charlevoix.

Q Oh, it was not until you got - -

A Until I got on the running board of the car.

Q Where did you board that car?

A Right at the corner of Charlevoix and Garland.

Q Was it a standing car?

A No, it was passing.

Q Passing on Charlevoix?

A Yes, sir.

Q Going west?

A That was going west on Charlevoix.

Q And where did you get on the running board, Sergeant?

A Right at the corner of Garland. - -

Q Now, where around that corner?

A Just at the southeast corner where I was standing.

Q Was it a police car?

A No, sir, it was a private car, a citizen's car.

Q A citizen's car. You got on the running board, got on the running board at the corner where you were standing,

and proceeded west.

A West to Garland.

Q As you got near the Sweet home, what happened?

A I saw shooting from the rear porch.

Q Did you hear the shots?

A I did, sir.

Q Could you see the flashes of guns?

A I could.

Q Could you see who was firing?

A No, I could not.

Q Did you hear the whistle of bullets?

A Yes, sir, I did.

Q Did they pass you?

A Passed right over the top of the car I was going over Charlevoix to the box.

Q You went over to Hurlbut and sent in a call for help?

A Yes, sir.

Q How many shots passed your estimate, your best estimate, that you heard fired?

A Oh, approximately - -

MR. DARROW: How many?

MR. TOMS: He hasn't answered.

A About ten or twelve that I heard.

Q Ten or twelve?

A About that.

Q After you sent in the call, what did you do?

A I came back to the corner of Charlevoix and Garland.

Q And in response to your call, other police officers arrived?

A Yes, sir.

Q Now, going back to the time before the shooting, Sergeant, beginning at, say, six o'clock in the evening. What were the conditions in that neighborhood from then until 8:30?

A Very quiet.

Q Did you have any trouble at all?

A No, sir.

Q Have any occasion to make arrests?

A No, sir, I did not.

Q What were your men doing?

A They were patrolling in the vicinity, around the house.

Q Where did you have them stationed around the house?

A I had one man on the south side of Charlevoix, south side of the house on Charlevoix, one man in the front of the house, and one man directly across the street, one in the rear of the house.

Q Across which street?

A Across Garland.

Q Over by the grocery store?

A By the grocery store, also man around the school, and in front of the apartment house, as you cross the street from the house at the corner of Garland.

Q How did they handle the pedestrians, or the traffic?

A Very good. There wasn't anything there - -

MR. DARROW: Well, now, wait a minute.

MR. TOMS: The object of my question was what was doing in handling the pedestrians.

MR. DARROW: What do you mean? You mean keeping

them back?

Q Didn't they follow your own instructions?

A They did.

Q What were your instructions?

A To allow nobody to congregate around, everybody to keep moving.

Q Yes. Now, at the time of the shooting, did you notice, anywhere, either on Garland or Charlevoix, a group of people - -

A No, sir.

Q - - of any size?

A No, sir, I did not.

Q Did you see anyone armed?

A No, sir.

Q Or carrying clubs, or stones?

A No, sir.

Q Were these people over on the side of Garland, in front of the Sweet house? That would be on the west side?

A Where do you mean, right in front of the house?

Q Yes.

A No, there wasn't.

Q A little louder, Sergeant.

A I say there wasn't.

Q How about the half block to the southside of the Sweet house on Charlevoix?

A There wasn't anybody there.

MR. DARROW: Now, you mean on the side of the house? You mean what?

MR. TOMS: On the north side of Charlevoix - @
north side of Charlevoix.

MR. DARROW: That is what I mean.

Q Have you had any occasion to handle the crowd at all that night, push them back, or were they giving you any trouble at all?

A No, they didn't.

Q Did you hear any inflammatory remarks, I mean, any threats made?

A No, sir.

Q Was there any shouting or calling?

A No, sir.

MR. DARROW: That is all very leading, and still I don't like to object. He really ought to tell it in his own words.

THE COURT: It seems to me - -

MR. DARROW: We can get through with it quicker then.

Q How were the conditions on the night before, Sergeant, tell us what you saw there on the night of the 8th, if you were there?

A I was there, yes, but there wasn't anything. There wasn't half as many people there on the night of the shooting as there was the night before. There seemed to be more people walking around there the night before. ^{Q More} / People on the 8th than there were on the 9th?

A There was. There wasn't anybody congregating around or gathering.

Q Well, would it?

A I had eight patrolmen, six uniformed men, and two plain clothes.

Q That made seven then. You say there were how many patrolman?

A There were eight patrolman.

Q And what else?

A And myself.

Bd 2:12

MR. DARROW: Well, now, I object.

MR. TOMS: I asked him - - I tried to follow your suggestion to let him tell his own story, isn't that so?

MR. DARROW: All right. I withdraw the objection. It should be what he thought, not comparison. I don't want to be very particular about it. If he has got anything to say, let him say it. I will withdraw my objection.

THE COURT: Go ahead.

MR. TOMS: Cross examine, Mr. Darrow.

MR. DARROW: Has he testified before at the preliminary hearing?

MR. TOMS: No.

CROSS EXAMINATION

BY MR. DARROW:

Q How long have you been on the police force, officer?

A Fifteen years.

Q Fifteen?

A Yes, sir.

Q Born in Detroit?

A Yes, sir; no, I was born in St. Clair County.

MR. FRIEDMAN: Michigan?

A Michigan, yes, sir.

Q How long have you been a sergeant?

A Two years.

Q Who was in charge that night when you were there, you or Schuknecht?

A Well, I was under his command.

Q He was really in charge then?

Q Is that all?

A That is all I had with me, yes sir.

Q Schuknecht was there, wasn't he?

A Why, he was at times, yes, sir. He would come there.

Q There all the time, wasn't he?

A Most of the time.

Q Was there anybody else there?

A Lieutenant Shellenberger.

Q Yes. That makes 11, doesn't it?

A Yes, sir.

Q Now, was anybody else there any part of the time, any other officer?

A Why, superintendent Sprott came up there.

Q Yes. Be 12. Anybody else?

A Not that I can recall.

Q They were there, the eighth, is that right?

A Yes, sir.

Q And they were there, the ninth?

A Yes, sir.

Q Anybody else called into service on the 9th?

A There was after the shooting, when the shooting started.

Q Before the shooting?

A Not that I recall.

Q Was there traffic policemen stationed at the corner there, after 8 o'clock?

A Yes, man doing traffic there at Charlevoix and Garland for a little while. Traffic was getting a little heavy.

Q How long?

A Oh, probably 30 minutes, half an hour.

Q You say the traffic was getting heavy?

A Yes, usually is heavy anytime.

Q Was it heavy the night before?

A Yes, sir, it was.

Q Did you station anybody there?

A Why, no, I did not.

Q Why did you station it the 9th and not the 8th?

A Why, to keep the traffic moving.

Q Yes. But you didn't do it on the 8th?

A No.

Q Was any other - - was there any other people brought in after that?

A Brought in where?

Q Into that vicinity, to deal with this situation?

A No, not until after the shooting.

Q Are you sure?

A I am most positive.

Q You were there all the time and knew what was going on, weren't you?

A Yes, sir.

Q Were there any traffic men called in to block the traffic a block away from there?

A Yes, sir, there was.

Q When were they called in for it called in, or who called in?

A Oh, probably about - 15, 20 minutes before the shooting.

Q Whereabouts?

A If I remember right, we had one man stationed at Waterloo and Garland and one man at Goethe and Garland.

Q That meant two men?

A Yes, sir.

Q Was that all?

A That is all I remember of.

Q Wasn't there a man stationed a block east of Charlevoix, on Charlevoix?

A A block east?

Q Yes.

A For what purpose?

A VOICE: St.Clair.

Q At St.Clair, traffic?

A There was after the shooting.

Q Wasn't that before? Just answer it yes or no.

A No, not that I can recall.

Q So, if there was, you don't know it?

A No, I do not.

Q Wasn't there one placed a block west - - what is the street -

A Do you mean on Charlevoix - I know there was.

Q To stop the traffic in that direction?

A After the shooting.

Q Before the shooting?

A Not to my knowledge.

Q If there were traffic officers placed a block away on each side of Charlevoix, you didn't know it?

A Not to my knowledge.

Q But you did know there were traffic officers placed on each side of Garland, a block away from Charlevoix, before the shooting?

A Yes, sir.

Q And that was after they had traffic officers - had traffic officer placed at the corner of Garland and Charlevoix?

A Yes, sir.

Q How long after?

A Why, I really believe they were all put on the same time.

Q Well, were they or weren't they?

A Well, now -

Q Or don't you know?

A I don't quite remember, Mr. - -

Q Who did it? Who placed him there?

A I think Lieutenant Shellenberger gave them the order to have them placed there.

Q You did not know?

A No.

Q And you now say you don't know when they were placed there, is that right?

A No, I don't know the exact time.

Q And if there were any placed at the other streets, you don't know at any time?

A No, I do not.

Q What were those two officers placed for a block on each side of Charlevoix and Garland. before

MR. TOMS: Wait a minute.

Q Block away from Charlevoix on Garland, why they were placed

there?

MR. TOMS: Did you place them there?

Q Do you know?

MR. TOMS: I object to that as incompetent, irrelevant and immaterial.

Q Why they were placed there -

MR. TOMS: I object to that as incompetent.

MR. DARROW: He is one of the officers in charge there.

THE COURT: Read the question.

MR. DARROW: The question, does he know? I say do you know why they were placed there?

THE COURT: He may answer it if he knows.

A No, I don't.

Q Haven't any idea?

MR. TOMS: That is objected to. He may have a lot of them.

Q Don't you know they were placed there to keep the traffic away from Dr. Sweet's house?

A Well, of my own mind, yes.

Q Was there - no officers were placed there the night before, were they?

A Not to my knowledge.

Q Well, these were to your knowledge, weren't they? You knew it? So on the 9th you knew -

A Why, not at the present time.

Q You knew on the 9th that there was a traffic officer placed one block north of Charlevoix on Garland, don't you?

A Yes.

Q Earlier, probably - - oh, at least before the shooting, there was a traffic officer placed at the corner of Garland and Charlevoix?

A Yes, sir.

Q And another traffic officer placed one block south of Charlevoix and Garland?

A Yes, sir.

Q No officers were placed in those positions the night before, were they?

A Not to my knowledge.

Q These officers were called in only a little while before the shooting, were they?

A I think so.

Q Now, don't you know why they were called in there?

A No, sir, I don't.

Q You couldn't see any need of them?

A No, I didn't.

Q No. Did you try to find out whether there was any need of them?

A Well, I took all precautions possible.

Q Were there any more people coming in there and going through there on the streets, at 8 o'clock than there had been at half past seven?

A No, not any more.

Q Not any more?

A I don't think.

Q What?

A I don't think there was any more.

Q No more immediately before the traffic was blocked off than there had been half an hour before that?

A No.

Q What?

A Properly.

Q Probably?

A Probably - repeat that question.

Q I want you to get it. I think I can make it simpler.

There was no more traffic and no more people and no more machines coming through and going through there just before the traffic was blocked off than there was a half an hour before it was blocked off?

A Well, there might have been. The traffic was very heavy and usually is in that vicinity.

Q That is not what I asked you. I asked you if it increased in the last half hour before?

A Not to my knowledge.

Q Well, do you know whether it did or not.

A No.

Q You had nothing whatever to do with ordering the traffic - the traffic policemen?

A No, sir.

Q How do you know they were there?

A I was told.

Q By whom?

A By Lieutenant.

Q When were you told?

A That night.

Q What?

A That night.

Q Before they were called or after?

A Well, now, I believe it was after. I am not positive.

Q Before the shooting or after?

A Before the shooting.

MR. TOMS: Speak up, will you, please. sergeant?

A Yes, sir.

Q Do you know how you happened to be called?

A Well, it is a matter of form.

Q What?

A Commanding officer instructed the sergeant where the men are, if they need any men there, it would be beyond my knowledge.

Q So for that reason, you were told that these were in those places?

A Yes, sir.

Q But you were not told there were any on Charlevoix, a block on each side of Garland?

A Not to my knowledge, I wasn't.

Q Might that have happened and you forgotten it?

A It might have been.

Q And did you know what directions were given to those, those traffic officers?

A Which ones?

Q That you say were there?

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- A To prevent traffic coming through Garland Avenue.
- Q All of the traffic was diverted from Garland Avenue, wasn't it?
- A Yes.
- Q And only those who claimed to be living in that block were allowed to pass?
- A Yes, sir.
- Q Do you know whether foot traffic was diverted too?
- A No, sir.
- Q Do you mean it was not, or don't you know?
- A It was not.
- Q It was not applied to conveyances, automobiles?
- A Machines.
- Q So far as you can remember, there was nothing to prevent automobiles coming in there from Charlevoix, is that right?
- A Coming in there from Charlevoix? What do you mean? Making a left hand turn or right hand turn?
- Q Yes, going across Charlevoix, going across Garland on Charlevoix as far as you know there wasn't any?
- A No, I don't think there was.
- Q No, if there is, you didn't know it, or if there was, you don't know it?
- A I don't know it.
- Q Hadn't there been a considerable number of automobiles driving up to that corner and passing that corner before those traffic cops were placed a block away on Garland on each side?
- A No, not so very many.

Q Then why was the order given, do you know, or don't you know?

A I don't.

Q What do you mean by "not so very many?" Can you tell about how many?

A No, I couldn't.

Q Did you see any automobiles come up around the corner of Charlevoix and Garland and unload any passengers that evening, before the shooting?

A Yes, sir, I did.

Q Do you know how many?

A Why, no, I think there was too.

Q Don't know how many?

A Not positive just the amount.

Q Do you know whether you saw more than two come up there?

A No, I donot.

Q You wouldn't swear you did not?

A No.

Q Do you know what these two were?

A Why, they were two colored men went into Dr. Sweet's home.

Q Yes. And what was the other - or did they come together?

A Why, I think they came together, if I remember right.

Q Well, had you your mind on some other conveyance besides that?

A No.

Q What?

A No, sir.

Q How long before the shooting did those colored men go into

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Dr. Sweet's home?

A Oh, about 6 or 6:30 that evening.

Q 6 or 6:30?

A I think it was about that time, if I remember right.

Q So far as you know, that was the only automobile or conveyance that came to that corner and unloaded any passengers that night?

A To my knowledge, yes, sir.

Q You wouldn't say it was the only one though?

A No, I wouldn't.

Q Were there any automobiles parked around that corner?

A The only car that was parked there was the grocery people across the street.

Q Was that the only car that was parked at any time that evening?

A I think so, yes, sir.

Q On either Charlevoix or Garland?

A There wasn't any cars parked on Charlevoix within that half a block.

Q Were there on Garland except that one?

A No, sir.

Q Are you sure about that?

A Not in the immediate vicinity.

Q What?

A Not in the immediate vicinity.

Q Well, within a block?

A Well, within a block?

Q Yes.

A Yes, I guess there was some about in the middle of the block up there.

Q How many?

A Oh, there maybe four, five, if I remember right.

Q Did you pay any attention to them?

A Why, no, I didn't.

Q Were there any parked along the line where this store is. You can see from this map where it was, excepting one?

A On the Garland Avenue side?

Q On the Garland side?

A I think there was only one there.

Q Do you know what kind of a car it was?

A Ford.

Q Do you live in that vicinity?

A I do within ten blocks of there.

Q Are you acquainted with the grocery man?

A No, I am not.

Q Were there any parked around the school house yard?

A There was on the south side of Charlevoix.

Q How many were parked there?

A Within the whole block?

Q Yes.

A Probably seven or eight.

MR. TOMS: Which block do you mean?

A Between Waterloo and Charlevoix on Garland.

MR. TOMS: Yes.

THE COURT: We will take a five minutes recess at this time.

(Recess.)

Q (By Mr. Derrow, continuing): I believe you said, officer, that you got there at 3 o'clock in the afternoon of the 8th, the day before,

A Yes, sir.

Q On that day you stayed how late?

A Until 11 or 11:15 when I was relieved.

Q And the next day, the 9th, you got there around 3 o'clock and stayed all night?

A Yes, sir, until about 1:30.

Q Any automobiles parked up around there on the 8th or don't you know?

A Where do you mean?

Q On Garland, north of Charlevoix?

A There was.

Q How many?

A Oh, probably four or five, in front of the people's homes up there.

Q Whose homes?

A I don't know what the people's names are.

MR. TOMS: He can't hear you.

Q Talk up so that we can hear you.

A I don't know what the people's names are.

Q Then how do you know they were parked in front of their homes?

A Well, up in that vicinity.

Q You mean there were houses in the vicinity of where they were parked?

A Yes, sir.

Q There are houses all along there, aren't there?

A Yes, sir.

Q You do not know whether they belonged to anybody who lived in the houses or not, do you?

A No.

Q Didn't try to find out?

A No, sir.

Q How many were parked in that block on Garland north of Charlevoix?

MR. TOMS: When?

Q On the 8th.

A That is, between Waterloo and Charlevoix?

Q Between Charlevoix and the next street north?

A North, that is Goethe?

Q Yes.

A Oh, probably five or six.

Q Did you see anybody get out of any of those automobiles?

A No, sir.

Q Do you know when they came there?

A No, sir.

Q Do you know when they went away?

A No, sir.

Q Do you know anybody in that block who owns an automobile?

A No, sir.

Q So you have not the remotest idea of what the automobiles were or whose they were?

A No, sir.

Q Did you see any automobiles on the 8th parked south of

Charlevoix, on Garland?

A South of Charlevoix on Garland?

Q Yes.

A Yes, sir, there were some parked along there.

Q How many in that block?

A Oh, probably seven or eight.

Q Do you know whose they were?

A No, sir.

Q Did you try to find out whose they were?

A No, sir.

Q Were they empty or was some people sitting in them?

A There was nobody in them.

Q The same thing on the 9th?

A Yes, sir.

Q Did you see any parked on Charlevoix east of Garland?

A No, not to my knowledge.

Q Or on Charlevoix west of Garland?

A That was how far up?

Q In that block?

A No, sir.

Q Did you see any parked around the school house on the 8th, excepting the ones that you have already mentioned?

A On which side of the school house are you referring to?

Q Either side or both sides?

A Not to my knowledge; there may have been.

Q They may have been lined up all along the street, and you not know it now?

A Oh, no.

Q Do you have any remembrance on the subject whatever?

A Not of any being parked around the school house, outside of the one that I had detailed there.

Q Did you see anybody on either night sitting in automobiles there?

A No, sir.

Q These automobiles that you saw parked on both nights, were empty?

A Yes, sir.

Q Where did you have one parked?

A I had one parked on the corner- the southeast corner of Charlevoix and Garland.

Q On which street?

A On Garland Avenue.

Q What kind of a machine was it?

A A Ford.

Q What time did you park it?

A It was there from about 4 o'clock in the afternoon.

Q And all of the rest of the time?

A Yes, sir.

Q That is the only one that you know of?

A That is the only one I knew of.

Q On the 8th, were orders given to the policemen as to what to do?

A Yes, sir, there was.

Q Did they do it?

A Yes, sir.

Q Those orders were to keep people moving?

A Yes, sir.

Q Did they keep them moving?

A Yes, sir, they did.

Q Did you see them do it?

A Yes, sir.

Q Wherever people would stop and congregate, they would have them pass on?

A Yes, sir.

Q Did you do any of that? Did you direct any people?

A No, not that I remember of.

Q You just saw the others do it?

A That is, if anybody came there and stopped there, we ordered them to move on which they did.

Q Did you ask any of them or did you simply see others do it?

A I seen the other ones, I ordered them to do it.

Q And that was on both Garland and Charlevoix?

A Yes, sir.

Q Now, where did you stay most of the time during the 8th?

A In that vicinity.

Q Well, what part of it?

A Oh, I was all around it.

Q You were walking all around it how many blocks?

A About from Bewick to Garland.

Q That is one block?

A About that.

Q Were you walking anywhere else?

A On Garland?

Q Yes, anywhere except from Bewick to Garland? Bewick is

south?

A Yes.

MR. TOMS: No, north.

A North.

Q North. Were you walking south on Garland?

A No, I was not.

Q Were you walking either east or west on Charlevoix that night?

A Yes, sir, I was in that vicinity in that block.

Q Well, did you pass up and down Charlevoix? Did you?

A Where do you mean, in that one block there? In that vicinity?

Q I mean in that vicinity. I will ask you where, afterwards?

A Yes, sir.

Q Often?

A Yes, sir.

Q Whereabouts, between the one street each way?

A Yes, sir.

Q How many times did you go from Charlevoix to Bewick?

A Oh, that is something I could not tell you.

MR. TOMS: Charlevoix to Bewick? They cross each other.

Q Charlevoix to Bewick.

MR. TOMS: Goethe is on the north.

Q That is right. Bewick is over here, isn't it, west (indicating).

MR. TOMS: Bewick is east.

Q West, isn't it, Bewick? You will not mind if I write

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"Bewick" here somewhere?

MR. TOMS: All right. Spell it with a "B".

Q What is over here? You will not mind if I mark that?

MR. MAHONEY: St. Clair.

Q (Indicating on the diagram): St. Clair. Up here is what you and I call Goethe. Down here is - -

MR. TOMS: Waterloo.

Q I guess I have got it right, that is, if I can read it. Did you patrol any from Garland to Goethe Street, north?

A No, I did not go up as far as Goethe.

Q How far did you go towards Goethe?

A Oh, probably 100 or 200 feet.

Q 300 feet?

A About that.

Q A number of times?

A Yes, sir.

Q On both the 8th and the 9th?

A Yes, sir.

Q Did you see anybody up that way?

A Why, yes, there was a few people around that way.

Q Whereabouts?

A Walking up and down the sidewalk, going to the store.

Q Anywhere else?

A No, sir.

Q Did you see any people there on the 9th?

A Yes sir.

Q Your answer so far applies to the 8th and the 9th both?

Now, I will draw or direct your attention to the 9th. Did

you see any people in that block on the 9th?

A Yes, sir.

Q What?

A Yes, sir.

Q Where were they?

A Why, the people were walking up and down, going to the store.

Q Going to the store?

A And so forth, yes, sir.

Q Did you see all of them go to the store?

A No, sir.

Q Did you see all of them go away from the store?

A Some people would go in the store and come out.

Q You assumed that they were all going to the store, did you?

A It was a warm night, and people were out walking.

Q Why do you mention the store?

A Well, I have seen people go in the store there.

Q You have?

A Yes, sir.

Q You do not know whether all of the people you saw there went to the store or not?

A No, I do not know as to that.

Q You do not know how they went, do you?

A No.

Q Didn't you ask them?

A No.

Q You did not say a word to any of them?

A No, sir.

Q There is a vacant lot on Garland running back the depth of the store, isn't there, or don't you know?

A A vacant lot on Garland?

Q On the east side of Garland from Charlevoix, running back along Garland going north?

A (No answer from the witness).

Q Let me call your attention to it, right in here (indicating). This is the east side of Garland, and the north side of Charlevoix (indicating). Isn't there a vacant place in there?

A No, sir.

Q What is there?

A There is a grocery store on the corner, and a two family flat in back of that.

Q Does the grocery store on the corner come up to the curb line?

A No, it does not come exactly up to the curb line.

Q How near it?

A Oh, probably 15 feet.

Q Did you see anybody in that space that evening?

A On the space by the store?

Q Yes.

A No, sir, there was not anybody there; there were probably a couple of people going in and out of the store.

Q Did you see anybody standing there at the store?

A Not directly in front of the store.

Q Not directly alongside of that store?

A No, sir.

Q At any time?

A No, sir.

Q Is there any vacant space in front of this flat building?

A Between the curb and the sidewalk.

Q Did you see anybody standing there?

A There was a few people standing there.

Q How many?

A Oh, probably eight or ten.

Q When?

A On the night of the 9th.

Q How much of the night of the 9th?

A Well, they were there about from the time of the shooting, if I remember.

Q How long had they been there?

A Not very long. Some people were sitting on the porch.

Q How many?

A Three or four.

Q How long were they sitting on the porch?

A Oh, some of those people had been sitting on the porch from the early part of the evening, in that vicinity.

Q I am speaking of this flat building.

A Well, I could not say.

Q Do you know whether anyone was sitting there?

A Yes, there was some people sitting there.

Q How many?

A Three or four.

Q How long had they been sitting there?

A Well, I could not just exactly say the length of time they were there.

Q All evening?

A No, they had been there from about six o'clock, maybe.

Q From six o'clock until the shooting?

A Yes, sir.

Q Were they doing anything?

A No, sir.

Q Did you talk with them?

A No, sir.

Q How long were those people standing out in front, do you know?

A No, I do not.

Q What were they doing?

A Nothing.

Q You passed them?

A I did, sir.

Q You said nothing to them?

A No, sir.

Q Didn't ask them where they came from or what they were doing?

A No, sir.

Q Or tell them to move on?

A No, sir.

Q Were there any at the next building?

A I think there were some people sitting on the porch there.

Q Was there a porch at the next building?

A If I remember right, there is.

Q Now, do you know about it, or are you just guessing?

A No, I am not guessing. I am almost sure there is a porch.

Q How many were sitting there on the 9th?

A I couldnot say how many there were.

Q Were there any standing in front?

A I am not positive of that.

Q You would not say yes or no to it?

A No, sir, I would not.

Q Were there any still north of that, standing in front?

A North on Garland?

Q On Garland, before you get to Goethe?

A Not to my knowledge.

Q You were up there weren't you?

A I was up there, yes, sir; there was some people there -

Q What?

A There was some people sitting on their porches and talking, in their shirt sleeves; it was a warm night.

Q We know that. There were people standing there too, as you say?

A There were some, yes, sir.

Q You say around ten standing in front of the apartment or the flat building?

A Oh, in that vicinity, yes, sir, about that.

Q You mean in that vicinity as related to the Number ten, about ten?

A Yes, sir.

Q As near as you can get at it. Now, were there any people on the 9th around the school house?

A Yes, sir, there was some people over there on the lawn.

Q How many?

- A Oh, I should judge probably eight or ten or fifteen.
- Q On the 2th?
- A Yes, sir.
- Q Did you count them?
- A No, I did not.
- Q Did you speak to them?
- A No.
- Q How long were they there?
- A Oh, they were there in the early part of the evening, lying on the grass.
- Q How long did they stay?
- A Well, they stayed around there up to the shooting.
- Q You never spoke to one of them?
- A No, sir, I did not.
- Q A good many people went in and out of the store?
- A Yes, sir, there was people going in and out.
- Q Did you go in and out?
- A I believe I did go in the store once.
- Q Any people in there when you went in?
- A Three or four.
- Q Did you talk to anybody in the store?
- A No, sir, I did not.
- Q Were there any people on the south side of Charlevoix and west of Garland?
- A The south side of Charlevoix?
- Q Yes, and west of Garland?

MR. TOMS: That is, by the apartment building?

- Q Do you know what there is on the south side of Charlevoix?

A Yes, an apartment.

Q Right across from Dr. Sweet's?

A Yes.

Q Were there any people there?

A There was a few people that lived in the apartment, they were sitting outside on their steps.

Q Do you know who lives in the apartment?

A No.

Q Then how do you know those people lived there?

A There was women there with children.

Q How many children did they have there?

A Two or three.

Q Anybody but women there?

A There was a man there, I think, on the front steps, in the first door.

Q One man or more?

A There might have been one or more, I couldn't say, but there wasn't more than two.

Q You don't know how many?

A No, sir, I do not.

Q You don't know who they were?

A No, sir, I do not.

Q You don't know who the women were?

A No, sir.

Q Or how many there were?

A No, sir. There was a couple.

Q How many children? Now, do you know? If you do, tell me.

A No, I don't know who they were.

Q You don't know who the children were?

A No, sir.

Q How big were they?

A Oh, running from the age of probably four years to ten.

Q Did you size them up to know about how old they were?

A Well, by looking at them just -

Q Do you know how many there were?

A Probably three or four.

Q Do you know anything about it? Did you make any observation so that you can tell?

MR. TOMS: He is giving his best estimate.

Q I asked him if he knows.

MR. TOMS: He says he does not and then he gives his best estimate.

Q You do not know who one of them was, and you did not ask them?

A No.

Q How long were they there?

A Why, they were sitting around there the early part of the evening.

Q Were they there the late part of the evening?

A I did not see them there in the late part of the evening.

Q Was there anybody on Garland on the west side of the street?

MR. TOMS: North or south of Charlevoix?

Q South of Charlevoix, across from the school house property?

A No, sir, there wasn't anybody aside from those who were sitting on the lawn.

Q Living on the lawn?

MR. FRIEDMAN: Sitting on the lawn.

A Sitting on the lawn.

Q Was there anybody there? I did not ask you where they were sitting. Was there anybody there. You may not understand where I mean; not on the school house grounds; across the street from that.

MR. TOMS: Across Garland.

Q Across Garland. I don't want to have you mixed on this, Officer. I mean over here on Garland and Charlevoix - this is the school house grounds?

A Yes, sir.

Q Covering a block?

A Yes, sir.

Q Across - west of that across Garland is something else, isn't there?

MR. FRIEDMAN: Charlevoix.

A You mean north of the school on Charlevoix?

MR. TOMS: West of the school on Garland.

Q Across the street from the school house on Garland. Now, have you got that straight?

A I have it straight.

Q Now, then, we will assume that you did not understand the former question. Were there any people there (indicating)?

A No, sir.

Q All that evening?

A Well, there were people that would be walking forth and back.

Q Were there people walking back and forth?

A Yes, sir, there were.

Q How many?

A Oh, I don't know, probably eight or ten.

Q All evening?

A Sometimes there would be two or three walk up and down the street.

Q Did you know any of them?

A No, sir, I did not.

Q Were those women and children?

A Women, children.

Q What aged children?

A They would run from five or six up.

Q You did not see any 14 or 15, 16 or 20 up there, did you?

A Well, there might have been some of those that were up there.

Q You did not see any men there?

A Yes, there was men that walked up there.

Q A man, you say, or men?

A There may have been men that walked past there.

Q You don't know how many?

A No, I do not.

Q Were there any men walking steadily back and forth there?

A No, sir.

Q You are sure about that?

A I am sure about that.

Q There was no man or men that were walking steadily back and forth there?

A No.

Q You would have known it if there had been?

A Yes, sir.

Q You would have gone out and found out what he or they were doing, wouldn't you?

A Yes, sir.

Q Were there people more than a block away that were congregated in any way?

A No, sir.

Q You carried no word to Dr. Sweet or anybody in his house, did you?

A No, sir.

Q And you said nothing to anybody in that vicinity?

A No, sir.

Q Neither on the 8th or on the 9th?

A No, sir.

Q Did you see any officers pushing people back on the 9th before the shooting took place?

A No, just asked the people to move.

Q How many times did you see that, or don't you know?

A Why, I don't remember that.

Q How many officers did you see do that, or don't you know?

THE COURT: Answer the question.

A I do not just remember.

THE COURT: We will adjourn at this time until 2 o'clock.

(Recess for luncheon).

Afternoon Session

Monday, November 9, 1925

2:20 o'clock P.M.

J. O. H. N. N. E. I. G. B. A. U. E. R., was thereupon recalled as a witness, and having been previously sworn, testified as follows:

CROSS EXAMINATION (Continued)

BY MR. DARROW:

- Q Officer, your business and that of all the rest up there was to protect that property and the occupants?
- A Yes, sir.
- Q You kept your eyes open?
- A Yes, sir.
- Q And your ears open?
- A Yes, sir.
- Q It was to protect, as you understood, from assault?
- A Yes, sir.
- Q You stayed there two days?
- A Yes, sir.
- Q And most of two nights, that is right, isn't it?
- A What is that last?
- Q Most of two nights?
- A Most of two nights?
- Q Yes, from 11 o'clock, the first night - you were there until 11 o'clock the first night, and one o'clock in the morning of the 10th?

A I remained there from 3 until 11, and the second night from three until about one thirty in the morning.

Q A little while before this shooting occurred, you stood on the corner of Garland and Charlevoix in front of the school house?

A Yes, sir.

Q Here is the school house here (indicating). You stood about here somewhere?

A I was standing right up on the sidewalk.

Q On the sidewalk?

A Yes, sir, on the corner there.

Q In this vicinity?

A Yes, sir.

MR. TOMS: You are in the street now, Mr. Darrow.

A Oh, the sidewalk is here (indicating).

MR. TOMS: That is right.

Q About there. In plain view and hearing of this house?

A Yes, sir.

Q Watching it, I suppose?

A Yes, sir.

Q And incidentally watching the crowd to see that nothing happened. Was there anybody with you?

A No, there was not right at that time.

Q Where were the other officers at that time?

A I had them detailed around in various parts around the house.

Q At that time, where were they, if you can tell?

A I had one man in front of Dr. Sweet's house; one on the

south side, on Charlevoix; and there was a man across the street on Charlevoix on the north side of it; and there was a man on Garland, on the east side of Garland north of Charlevoix; and a man in the rear of the house, in the alley.

Q The officers on the street, outside of yourself, who were stationed in front of the house, were they moving around?

A Yes, sir.

Q Amongst the people that were there?

A Yes, sir.

Q And telling them, whenever they thought it was necessary to disperse and move on?

A Yes, sir.

Q Where was the inspector?

A He was right in the middle of the street if I recall.

MR. TOMS: When?

Q Before the shooting, ten or fifteen minutes before; I believe you said that you stood there - how long was it, about how long, at this corner before the shooting?

A Oh, probably ten minutes.

Q You said ten or fifteen or something like that. Where was the inspector during that time?

A As I recall, he was right in the middle of the street.

Q That is, in the middle of Garland?

A And Charlevoix.

Q And what?

A And Charlevoix.

Q Just about as near the corner as he could be, I mean, just about as near the center, where they intersect?

- A Yes, sir.
- Q How far was he from you?
- A Probably from here to that bench, the first one(indicating).
MR. TOMS: 20 feet?
- Q 20 feet?
- A 20 feet.
- Q Did you talk with him any at that time?
- A No, I did not.
- Q Did you talk with anybody at that time?
- A No, I did not.
- Q Did you hear any stones thrown around the house?
- A No, sir, I did not.
- Q Anything thrown against the house?
- A No.
- Q Did you hear any windows break?
- A No, I did not.
- Q You were looking at it and listening?
- A Yes, sir.
- Q You heard how many shots fired first?
- A Oh, probably 12 or 15, in that vicinity.
- Q Were all of the shots fired in close succession?
- A They were, all that I heard.
- Q All that you heard?
- A Yes, sir.
- Q How much time was there between the first and the last?
- A Oh, probably a few seconds.
- Q Could you say how many?
- A Oh, I could not say how many; probably ten or fifteen seconds, somewhere in that neighborhood.

Q The whole shooting would cover that, as near as you can get to it?

A Yes, sir.

Q Now, could you distinguish the different shots, or did they come so close together that you could not?

A They came so close together that I could not.

Q Did all of them come close together?

A Yes, sir, what I heard.

Q You heard them all, didn't you? There was no reason why you could not hear them all in that position, was there?

A Well, while they were shooting, I went to the box and called for help. That was two blocks away from where I was standing.

Q Were they still shooting or had they stopped when you went to the box?

A They were still shooting when I went.

Q You could hear them shooting while you went to the box?

A Yes, sir.

Q Did they stop while you were going?

A Not that I remember.

Q You do not know whether they did or not?

A I could not say whether they did or not.

Q You got onto a machine there, did you?

A Yes, sir.

Q That was one that was driven by somebody else?

A By a citizen, yes, sir.

Q Where did the machine come from?

A I got on a machine at the corner of Charlevoix and Garland.

Q Which way was it going?

A I am not positive that this machine was stopped, but I jumped on the running board.

Q How many people were in it?

A Just the one, the driver.

Q A man?

A Yes, sir, a man.

Q That was right close to you?

A Yes, sir.

Q Which way was it headed?

A It was headed west.

Q On Charlevoix?

A On Charlevoix.

Q Do you know about where that man lived?

A I did not get his address, but Sergeant Williams got it later on.

Q Do you know from Sergeant Williams where it was?

A Yes, sir.

Q Where did he live? (to Mr. Toms). You do not mind my asking that? It would not be strictly competent.

MR. TOMS: No. He will be here to check it up.

Q He will be here to check it up, so all right. Where did he live?

A (After referring to memorandum book). He lived at 3458

H. Garland.

Q How far was that from this place?

A That would be a block and a half north or better than that.

MR. TOMS: 2900 to 3400.

A 3458; that would be north of Goethe.

Q Well, about where it was, I guess.

MR. TOMS: Pretty nearly two blocks.

Q I suppose it would be pretty nearly two blocks. He was moving when you saw him, was he?

A Yes, sir.

Q How was he driving?

A He was driving very slow.

Q Driving north?

A He was driving west.

Q Driving west?

A Yes, sir.

Q Had he passed the center of Charlevoix?

A I think he was just about on the intersection.

Q Going straight west?

A Yes, sir.

Q you jumped on the car while it was going west?

A I jumped on the running board.

Q Did you tell him where to drive?

A Yes sir, I did.

Q Where did you tell him?

A I told him to drive up to the corner of Hurlbut and Charlevoix, that I wanted to use the patrol box.

Q He did drive up there?

A Yes, sir.

Q How far was that?

A Two blocks.

Q What did you do, just call the box, - or did you telephone?

A I called the station and told them to send what men they had up there.

Q Do you know where this man went after that?

A I believe he came back east on Charlevoix.

Q Could you give me his name, or did you? What is his first name?

MR. TOMS: His name is William Graham, or Graham.

Q Did you say that you got on there as quick as you heard the first shot, or couldn't you tell exactly? Perhaps you can't

A There were several shots fired, one after another, and I think probably four or five shots were fired when I got on the running board of the car.

Q You heard a shot or more as you were going past the rear of the house, is that true?

A Yes, sir.

Q Or at least coming from that side?

A Yes, sir.

Q Did you see any fire?

A I could see the fire from the guns, yes, sir.

Q From the windows?

A Yes.

Q What windows?

A The ones I seen it from were the front window^{and} from the rear porch.

Q Are you a member of any organization up in that neighborhood?

A No.

Q Or in your neighborhood?

A No.

Q Do you know anything about the Water Works Improvement organization?

A No, sir, I do not.

Q You have heard of it, I suppose?

A I have heard of it, yes, sir.

Q You have heard of it being in there, haven't you?

MR. TOMS: Being in where?

Q You heard of one organized in that district?

A Yes, sir, I have.

Q Ever make any inquiries about it?

A No, sir, I did not.

Q Neither before or after?

A No, sir.

Q That is all.

MR. TOMS: That is all, sir.

(The witness was excused)

- - - - -

C L A Y T O N W I L L I A M S, was thereupon called as a witness on behalf of the People herein, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

MR. DARROW: Do you know whether he testified at the examination?

Q No, I do not. Sergeant, you were a member of the Detroit Police Department on the 9th of September of this year?

A Yes, sir.

Q And before that?

A Yes, sir.

MR. DARROW: what is his first name?

Q Clayton Williams. Did you ever talk to Dr. Sweet, the defendant in this case?

A I did.

Q One of the defendants?

A Yes, sir.

Q When was it?

A It was on the 8th, when they moved into the house down there on Garland and Charlevoix.

Q where did you talk to him?

A In his house.

Q How did you happen to be there?

A I was sent down there on orders of the Inspector to guard the property with four other men. I went down there to see who was in the house. I seen some people there. I went in, and the people that had sold the house, I presume was in the house, and they said that they were just going out, and that Dr. Sweet was going to move in that morning. Then when I seen the doctor go into the house, or some colored people go into the house, I went in and asked for Dr. Sweet, and there was a gentleman with glasses on, who said his name was Dr. Sweet and I told him -

Q (Interrupting): Will you look at the defendants and see whether the man you spoke to is in the box over there?

A (Indicating): He is the gentleman over there next to the woman with glasses on.

MR. DARROW: Just one second. Was there anybody else there? This is on the question of the conspiracy? Was there anybody present?

MR. TOMS: Just let the record show that the witness

B 2 2:13

indicated Ossian L. Sweet, the defendant.

Q (By Mr. Toms, continuing): What conversation did you have with Dr. Sweet at that time?

A I told him, I said, "Doctor, " I said "I am up here now to protect your property on orders of the inspector, and any complaint of anything that you see out of the way or happen here, you go on about your business and I will see that you are protected and taken care of, and your property around here; that is what I am sent up here for." Then I went on out.

Q What did he say, if anything?

A He said, he thanked me for it, and if there was any complaint or anything like that, he would come to me.

Q Was anybody else in the house that you saw at that time?

A His wife was there.

Q Anybody else that you saw?

A The other fellows in the house at that time, they were moving in and out, they were bring in some stuff at that time, and I did not take any notice, because I just stepped in for a minute and went right out on the outside.

Q You do not know whether the people that you saw coming in and out stayed or not?

A Not at that time.

Q What time of the day on the 8th was that?

A That was around 10 or 10:30.

Q In the morning?

A Yes, sir.

Q Did you stay there with your squad?

A I stayed there until four o'clock that afternoon.

Q Were you then relieved by another squad and another sergeant?

A Yes, sir.

Q Did Dr. Sweet make any complaint to you at that time or at any other time?

A I never spoke to Dr. Sweet after that. I never seen him.

Q Well, at that time, did he?

A No, sir, he did not.

Q You have testified to practically all that he said to you?

A I have.

Q Were you there on the morning of the 9th?

A I was, sir.

Q With how many men?

A I had four men and myself, making five altogether.

Q You went on duty there at what time?

A My men went there at 7 and I got there about half past seven or a quarter to eight.

Q And stayed there until what time?

A Until four that afternoon.

MR. DARROW: May I ask him one question?

Q Yes.

MR. DARROW: Who was present, or was anybody present with Dr. Sweet when you and he talked?

A His wife was there and three or four other colored men, standing around there when I went in.

MR. DARROW: Do you know who?

A I don't know - I know his wife and Dr. Sweet was there, and I don't know the other colored men that were moving in at

the time. I could not know who the others were.

Q You would not say whether the other colored men were the defendants or not?

A I could not say.

MR. DARROW: All that I want to ask at this time is that so far as his testimony is concerned, ^{as to} that particular event, it is not to be considered by the jury excepting in connection with Dr. Sweet and his wife.

MR. TOMS: Obviously it would not be binding on anybody else.

MR. DARROW: Just so the jury understands it.

THE COURT: The jury will so understand that this testimony is binding solely upon Dr. Sweet and his wife.

MR. TOMS: That is at this stage. If it is later connected up with other defendants, and made a part of the conspiracy -

MR. DARROW: Then that is a different proposition.

Q You were not there, Sergeant, when the shooting occurred?

A No, just after.

Q How soon after the shooting did you arrive?

A Oh, I judge a half hour.

MR. DARROW: How long did he say he was there on the 9th?

Q From 8 in the morning until 4 o'clock in the afternoon, about. When you got there after the shooting, had the defendants been taken away?

A They had, sir.

Q Did you go into the house?

A No, I did not go into the house. I reported to Inspector Schuknecht and stayed on the outside waiting for orders, and then he sent me home because I had worked all day. I told him I would report back to him that night later on if he needed me.

Q About what time was it when he sent you home?

A Well, I guess it was about 11 o'clock, maybe a little later.

Q About what time - 11?

A 11 or a little later, maybe.

Q During the mornings of the 8th and 9th while you were there, did you observe the general condition of the neighborhood?

A I did.

Q Were you around the house all the time?

A I was, sir.

Q At any time from 7 until 4 on either the 8th or the 9th, was there any disturbance there?

A None whatsoever.

Q Crowds gathered?

A No, sir, not during the day time, I did not see any crowds while I was there.

Q Any stones thrown?

A No, sir.

Q Windows broken that you heard?

A No, sir.

Q Did you see any one armed?

A I did not.

Q Or carrying clubs or stones?

A No, sir.

Q Were people gathering there in crowds at all, or in groups?

A No, sir.

Q Were any of the officers under you compelled to disperse any crowds?

A No, sir, I only saw one man walking up and down the street there. A man would walk from in front of this house, and then turn the corner and walk up as far as the alley. That is all I had there on the two days, and I kept the other three in a tire shop, on reserve, in case anything did happen. They were not out at all, they just changed off, the men would, just one man out there.

Q It only required one man -

MR. DARROW: I object to that as calling for a conclusion.

Q Did it at any time require more than one man?

MR. DARROW: I object to that.

A It did not require anything.

MR. DARROW: He can tell what the situation was.

Q Did anything happen which caused you to send more than one man at any time over to the Sweet house?

A There was not.

Q The tire shop where you kept the other three officers seated comfortably was on the north side of Charlevoix, was it?

A Yes, sir.

MR. DARROW: Whereabouts is that tire shop?

Q It is between the grocery store and the alley.

A It was about five doors from there.

Q What is it?

A It is about five doors, I should judge from there.

Q From the grocery store?

A From the grocery store.

MR. DARROW: What did he say?

A About five doors, I think that much, but I ain't so sure about that.

Q Between Garland and the alley east of Garland?

A Yes, sir.

Q North of Charlevoix?

A Yes, sir.

Q While you were there on the 9th, officer, in the afternoon, did you see anyone sitting on the porch of the Sweet house?

A There was four colored men.

Q What did you see those four colored men do?

A They were sitting on the swing there at noon it was, and one of them got up when the children were going to school, or coming home from school first it was, - there was a short man who walked up and down the length of the house - I mean the width of the house, in front.

Q On Garland?

A Yes, smiling, and then he went upon the porch, and when the children were coming back, from school, he was walking up and down. He did the same thing when they were going home from school, around 3 or 3:15 in the afternoon, he walked up and down.

Q Could you recognize that man if you saw him?

A I think I could.

Q Will you look at the defendants and see whether you see him among them?

A (Witness left the stand and went over to the prisoner box). This gentleman here (indicating).

Q All right. You will have to tell me the name of that defendant?

MR. DARROW: Is that the one (indicating)?

A Yes, sir.

Q Are you willing to state for the record that defendant's name?

MR. DARROW: You do not know his name?

A I don't know his name.

Q I am asking you, Mr. Darrow, and not the witness. Are you willing to state the name of the defendant he pointed out?

MR. NELSON: Henry Sweet.

Q Let the record show that the witness indicated the defendant Henry Sweet. Did you see where those four colored men went finally?

A They went into the house.

Q They went into the house?

A Yes, sir.

Q That was about what time?

A Oh, that was -- they sat there -- they came out about half past ten, and they sat there until about one, and then they went in the house, and then they came out again in the afternoon about 3.

Q Were they there when you left?

A No, they had gone in then.

Q When they came out about three o'clock, they did not stay

very long?

Q They did not stay very long at all. They just sat out awhile and went on in.

Q Did you pick up some stones in the yard of this house, Sergeant?

A I did.

Q When was that?

A That was after the shooting, on the next morning.

Q On the morning of the 10th?

A Yes, sir.

Q Where did you find them?

A I found stones scattered around the ground in front, and then I think there was five of them that we picked up in the roof.

Q Which roof is that?

A Of the porch in the front.

Q Is the roof of the front porch flat?

A It is on a little slant.

Q I show you Exhibit No. 3, which is a picture of the Sweet home. When you say on the roof, point out where you mean?

A Right up here (indicating).

Q Will you look at this, Mr. Darrow?

A (Indicating) Right up here. That is a bed room up there, and this was right by that bed room there, on this porch. There is a little bit of a slant, not much. It slants just a little bit down that much, just enough for the water to run off, I would say.

Q You found some stones on that roof?

A I think it was about five stones. I think it was five stones, but I am not sure.

Q Where did you find the others?

A On the ground in front of the house.

Q Did you pick up all of the stones that you found?

A I picked up every stone I could find around there.

Q And saved them?

A I handed them to, I think, Mr. Kennedy, and Mr. Johnson who were there; I handed them over to them.

Q I will show you these five stones, which we will consider Exhibit 39. Do you recognize those as the stones that you picked up on the roof?

A They were stones just exactly like that, of a similar kind; the same kind of stones.

MR. TOMS: (To counsel): Do you object to offering these in evidence?

A The same kind of a stone.

MR. TOMS: I offer them in evidence.

MR. DARROW: All right.

MR. TOMS: No objection?

MR. DARROW: No objection. You can offer more if you want to.

MR. TOMS: I may do that too.

(The box containing the stones was marked People's Exhibit No. 39.)

Q Now, Sergeant, I show you this box of stones, ten stones, marked Exhibit No. 40. Can you say whether those are the stones which were picked up off the lawn, or do they resemble those?

A These are stones that resemble those that I picked up and handed over. I did not put my mark on them.

Q These are all the stones - -

A They are like the stones I picked up and gave.

Q These are ^{all} the stones that you could find?

A That is all the stones I could find. I picked up every-one I could find.

MR. TOMS: I offer Exhibit 40 in evidence.

(A box containing stones was marked People's Exhibit No. 40.)

THE COURT: Is there any objection?

MR. DARROW: No objection.

THE COURT: It will be received.

Q You do not know how these stones got in front of the place?

A I do not know. They were there the next morning. There were not any that I could see the day before that, I know, that is, I did not see any.

Q That was the afternoon of the 9th?

A On the afternoon of the 9th I did not see any. I looked for some, but I did not see any, but the next morning after that I seen them on the lawn.

Q At no time did you hear any thrown there?

A I did not see any or hear any.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q At what time were you there the next morning?

A You mean after the shooting?

Q On the morning of the 10th when you picked up the stones?

A I was there at half past seven, sir.

Q The stones that you picked from the roof were in front of this dormer window, if that is what you call it?

* Well, I would call this a bedroom; it was in front of that bedroom window.

Q There is a little sort of a shelf there, is there?

A No, I don't think there is, but I would not say.

Q There is a surface there?

A There is a roof that comes out there.

Q Do you know how wide the roof is from the window, out?

A I did know. I saw it measured. I helped to measure it.

Q Have you got a measurement around it anywhere?

A A measurement of the roof?

Q Of the roof?

MR. TOMS: It is shown on the drawing there.

Q Where would that be?

MR. TOMS: Around there (indicating).

Q This is Charbevoix.

MR. TOMS: This is Garland. Here is the front of the house. This seems to be only a floor plan.

Q You could not tell from that?

MR. TOMS: Oh, here it is right here.

Q You mean that is the shelf or the dormer?

MR. TOMS: He is the dormer. All the rest of it is roof. Here is the dormer projecting out, and this is the roof that is shown here (indicating).

Q You don't know how long it is, this portion of the roof in front of that window is, or wide?

A I would say it to be about nine feet. It would be the width of the house there, whatever it is there, but I could not say.

Q All the rest of the roof is sloping, isn't it, excepting that spot?

A Yes, sir.

Q You did not measure it to know how wide it is?

MR. TOMS: Here it is in measurements.

A The engineer measured it. I held the tape measure.

MR. TOMS: The dormer is thirteen feet and one inch wide, and it is nine feet and two inches from the edge of the dormer to the edge of the roof.

Q Now, did you look in back of the house?

A Yes, sir.

Q For stones? Did you find any?

A No, sir, not the next morning. There wasn't any there.

Q How is that?

A There wasn't any there.

Q Did you look?

A I did. I looked all around, every morning I went up there.

Q Did you look on the morning of the 10th?

A Yes, sir, I did.

Q You did look there?

A Yes, sir.

Q When you came to Dr. Sweet's house on the 8th, what time of the morning was it?

A It was at half past seven in the morning, sir.

Q You talked with him when he was moving in?

A I talked with him when he was moving in, and I should judge it was around ten or half past ten.

Q Did he know you before that time?

A No, sir.

Q Or you him?

A No, sir.

Q You were sent up by somebody up there when he moved in?

A I was sent up there to guard that piece of property on that corner, by the inspector.

Q You never went in afterwards?

A In the house?

Q You never went in the house afterwards, that is, until this was all over?

A Until after it was all over, only the once.

Q You told Dr. Sweet what you had come for?

A I did.

Q And that you were going to take care of him?

A Going to take care of the property and see that he was not molested up there.

Q What time did you say you saw anybody from the house walking outside?

A I did not get you.

Q What time did you say it was when you saw anybody from the house walking outside?

A You mean walking up and down the street?

Q Yes?

A On the 5th, or the 8th?

Q Either day?

A Well, on the 9th they came out there in the morning.

Q At what time?

A Well, I should judge it would be around ten o'clock.

Q How many?

A There was four sitting in the swing.

Q How many walked up and down in front?

A One.

Q How long a time?

A Well, he walked there about twenty or twenty-five minutes, I should judge.

Q And then went in?

A He went in; he went up on the porch and sat down a few minutes and then they all went in.

Q Did you say anything to him when he was there?

A I spoke to no one.

Q What time was it when he came out later?

A He came out about, oh, I should judge after 12, I would say about twenty after 12, or somewhere around that time.

Q How long did he walk up and down then?

A Until about between a quarter and twenty after one.

Q Was anybody with him?

A No, sir.

Q Then he went in?

A Then he went in.

Q You said nothing to him then?

A I did not speak to no one.

Q That is the only time you saw any of those people outside

of the house in those two days, isn't it?

A I would not say whether it was on the 8th or 9th that a car stopped, and Dr. Sweet and somebody else went out to the car and spoke to somebody, but went right back in the house. That is the only time.

Q Outside of that so far as you know none of them came out of the house at all?

A Except the 9th, what I told you.

Q You mean the night?

A No, the 9th, except what I told you.

Q You have told me about that?

A Yes, sir.

Q Outside of what you have told us you saw nobody come out of the house, or be outside of the house?

A No, sir.

Q In the two days that you were there?

A Yes.

Q How long did you stay the first day?

A I stayed, it was around four o'clock.

Q On the second day you got there at three o'clock?

A No.

Q Whattime?

A I got there in the morning and stayed until four. I came there in the morning around about half past seven and stayed until four.

Q Did you go back?

A The first night I went back a little while.

Q What time?

A Oh, I should judge I was back there about half past seven

or a quarter to eight.

Q How long did you stay?

A I rode around the district with the inspector.

Q I beg your pardon?

A I rode around the district with the inspector.

Q How long did you stay there at the house?

A I did not -- I was all over the district there. I was not at the house at any one time at all. I was riding around and seeing how things were, around through the district from St. Clair to --

Q I mean, with reference to this Sweet matter?

A You mean, stayed in front of the house?

Q You were riding around this district to see in reference to the guarding of this property, is that it?

A I stayed there until about ten o'clock that night.

Q How long were you in view of the house?

A I was in view of the house there for about two hours there that night.

Q How far did you go around the district?

A Oh, about a block on each side.

Q Walked or ride?

A I rode.

Q You took a machine to go a block each side?

A We kept riding around. I was working under orders.

Q What were you doing?

A Just seeing how things were.

Q Did you talk to anybody?

A I was sitting there talking to the inspector.

- Q Anybody else?
- A That is all.
- Q You talked to none of the people up there at any time?
- A I was under the inspector's orders.
- Q Oh, no, no, but did you?
- A Not that I know of, not that night.
- Q You don't remember talking to any of the people at any other time?
- A Not that night.
- Q That was the night of the 8th?
- A Yes, sir.
- Q How many hours were you there the night of the 8th?
- A As I say, I was around there from about half past seven up until ten, I should judge.
- Q How many officers were there?
- A That night?
- Q Yes.
- A I do not know how many Sergeant Neighbauer had. I seen three or four myself. I don't know how many they had detailed there, because I had nothing to do with it that night.
- Q All you saw was three or four officers?
- A There that night, all I seen in view. There might have been some more there.
- Q I am asking you what you saw?
- A Three or four that night.
- Q That is all you saw from the time you went until you went away, is that right?

A Yes, sir.

Q Where were they?

A They were around the house marching, walking around.

Q Did you see them talk to anybody?

A I did not.

Q Were they ordered to keep the people moving?

A The people were moving.

Q Were they directed to keep the people moving?

A I do not know. They werenot under my command.

Q Did you see anybody trying to keep the people from moving?

MR. TOMS: Haven't you mis-spoken yourself?

A I seen people moving. They did not have to.

Q I ask the last part of the answer be stricken out.

THE COURT: Read the question and the answer.

(The question and answer were read.)

THE COURT: The last part of the answer may be stricken out.

Q You saw no policeman approach or talk to or direct anybody who was in that vicinity on that night at any time, is that right?

A I do not know what they said because I was not on that side where they were

Q Did you see them have any conversation with the people at all?

A I did not -- they might have been talking to one or two, marching up and down, but I don't know what they said.

Q I did not ask you that. I asked you if you saw them do it?

A Do what?

- Q Speaking to anybody who was around that house?
- A I don't know whether they were talking or not, Mr. Darrow. I was on the other side of the street. They were walking up and down.
- Q As far as you know you did not see it then, if there was any?
- A Any what?
- Q Any addressing of people by the policemen, or directions given by the policemen to the people?
- A I don't know what the officer was saying on the other side at all.
- Q Do you know whether he said anything to anybody?
- A No.
- Q Did you see any officer do it?
- A No, I do not know what he said.
- Q That answers the question. You were on which side of the house?
- A I was on the southwest corner, when I came down at that time.
- Q The southwest corner?
- A Yes, sir.
- Q That would be southwest on Charlevoix?
- A Right near the flats there.
- Q Near the flats?
- A Yes, sir.
- Q Were there any people there at the flats, outside?
- A I did not see any.
- Q How long were you there?

A Two hours.

Q You saw nobody around the flats?

A Well, ^{if} they were walking up and down I did.

Q Did you see anybody staying there at the flats?

A No, I did not see anybody standing around there.

Q Did you see anybody on Garland Avenue south of Charlevoix?

A On Garland, south?

Q Yes, opposite the schoolhouse?

A No, sir, I did not. I seen people standing there - - walking up and down the street.

Q Did you see anybody standing there?

A I did not.

Q Did you see anybody walking back and forth, that is, the same person going both ways?

A No, sir, I did not.

Q Walking and turning around and going back?

A I did not.

Q If any such thing happened, you did not see it?

A I did not recognise it if they did.

Q Did you see anybody on the schoolhouse grounds?

A I did not.

Q At any time during the evening?

A No, sir, I did not.

Q You were right there, weren't you?

A If they were there, I could have seen them.

Q Yes. Did you see anybody north of Charlevoix Avenue, standing outside?

A No, sir, I did not, unless it was a policeman.

*For out of the then
11/20/23
see on 9/1/23
the schoolhouse
ground*

Q Pelécamen were about all there were there?

A Well, people walking up and down, but they were not standing.

Q You saw nobody standing in any of those places or buildings?

A There were no one standing. They were all moving at the time.

Q That was the situation on the 8th?

A Yes, sir.

Q On the 8th you got there about what hour?

A I got there about a half hour or so after the shooting.

Q You got there in the daytime, too?

A I was there in the daytime.

Q At what time?

A Oh, I was there about half past seven in the morning.

Q What time did you leave?

A Around four o'clock.

Q Did you stay all the time from half past seven until four?

A I did.

Q When did you go back?

A I drove up there in my car about a half an hour after the shooting. I would say that I drove up there about around ten or a quarter to ten.

Q You were not there from four until a quarter to ten?

A About that time.

Q Now, you went there by direction both times?

A I told the inspector that I would be back, I asked him if he wanted me to come back that night, and he said, "You can drive around and see me in case I want to see you, or

anything." So, I went over to Belle Isle and I came back that way and stopped in and spoke to him.

Q How was the weather, warm, on the 8th and the 9th?

A Yes, sir, it was warm.

Q Quite warm?

A Yes, sir, very warm that night.

Q And during the day?

A And during the day.

Q When you were talking with Dr. Sweet what room were you in in the house?

A Well, let me see; it was the dining room.

Q Where was Mrs. Sweet?

A Standing right there beside him, sir.

Q You saw nobody else around there?

A What do you mean, sir? Besides those two?

Q Yes.

A There was about four or five fellows moving them in. I did not pay any attention to them.

Q That was the time of the moving?

A Yes, sir.

Q You had an officer's uniform on when you were there?

A The way I am dressed now, sir, except I had a summer coat on.

Q How many officers did you see when you were there on the 9th?

A When?

Q You went there you say and left at four o'clock in the afternoon of the 9th?

A You mean how many?

Q How many officers were around there?

A I had four of them down to the scene, but only one of them walked up and down. I was in charge of them.

Q The rest were over in a tire shop?

A There was three over in a tire shop, and they would trade off every half hour, and walk up and down.

Q There was only one there besides yourself at the scene from four o'clock until seven when you left?

A They were different men, only they changed.

Q I mean only one at a time?

? MR. TOMS: You mean from seven to four?

A From seven to four.

Q Yes. Seven o'clock in the morning until four in the afternoon?

A Yes, sir.

MR. TOMS: You had it turned around.

Q Did I? That is as long as you stayed there, wasn't it?

A That is as long as I stayed.

Q While you stayed there, there was only the one besides yourself at any one time - -

A (Interrupting): When I was in charge there was only one. I only told one to walk up and down.

Q While you were in charge there?

A Yes, sir.

Q Where was the inspector then?

A The inspector?

Q Was he there?

A He came up and seen me at different times. The sergeant

always takes charge of anything like that.

- Q He did not stay there?
- A He came up and saw how everything was going on, and went away, because he had other business to attend to.
- Q You do not remember seeing the inspector on the corner there when you were standing there at any time?
- A When?
- Q At any time?
- A The inspector drove up there and talked to me, asked me how I was getting along.
- Q What did you do with the stones when you picked them up?
- A I turned them over to Prosecutor Kennedy and Detective Johnson, who were there at the time. I was guarding the house when they came up.
- Q Was there anybody with you when you picked them up?
- A Those three men were with me, the officers who came --
- Q Anybody else?
- A No, except there was a man taking a picture of the house. I don't know whether he noticed it or not.

MR. DARROW: That is all.

~~DIRLECT~~
REGROSS EXAMINATION

BY MR. TOMS:

- Q Do you know that now there is a broken window on the second floor on the Charlevoix side of that house?
- A There is.
- Q Do you know whether on the afternoon of the 9th and the morning of the 10th, that is, after the shooting, that window was broken?

A That window on the Charlevoix side, on the north side of the house - -

Q No, the south side of the house, the Charlevoix side?

A Yes, the Charlevoix side - -

Q That is the south side of the house, you see?

A Yes, the south side of the house. That window was broken - - let me see - - I noticed it on the morning of the 11th for the first time.

Q You know that it was not broken on the 10th?

A Before that it was not broken, because I took measurements of it, I looked it over at the time.

Q You helped take measurements to make these drawings, didn't you?

A I held the tapeline, that is all.

Q Was that house constantly under guard from the time of the shooting until after you picked up those stones?

MR. DARROW: I object to that. He was not there.

Q Well, you were there the night of the 9th, at the shooting?

A After the shooting.

Q You were there at 7:30 the next morning?

A Yes, sir.

Q When you went there was it under guard?

A I relieved Lieutenant Smith that morning.

Q That is the morning of the 10th when you picked up the stones?

A Yes, sir.

Q That is all.

RE-CROSS EXAMINATION

BY MR. DARROW:

Q You do not know when that window was broken, do you?

A It was broken -- let me see -- I left there at 4 o'clock on the 10th, and it was not broken then, because we had taken the measurements, and the window was O. K. then. I came back, I think it was on the 11th, and I was standing opposite the house on the Charlevoix Street side, I was just there looking around, as I did every morning, looked the house over to see that everything was in shape, because the Sergeant is responsible for what happens on his shift, and if anything happens we have to tell the inspector about it --

Q Never mind about that.

A I found the window broken that morning when I went on.

Q You don't know who broke it?

A I don't know anything about it.

Q The defendants were not there; they were in jail, weren't they?

A Oh, they were in jail, yes.

Q And this house was under guard. Well, you have already told us that. That is all.

MR. TOMS: That is all.

(The witness was excused.)

- - - - -

J O S E P H . E . G R O H M, was thereupon called as a witness on behalf of the People herein, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q What is your full name, Sergeant?

A Joseph E. Grohm.

Q You are a member of the Detroit Police Department and were on the 9th of September of this year?

A Yes, sir.

Q Were you detailed at any time on either the 8th or 9th of September to 3905 Garland Avenue in the city of Detroit?

A I was.

Q When were you first detailed there?

A I think it was on the night of the 6th or 5th, about two or three days before the shooting.

Q About two or three days before the shooting?

A Yes, sir.

MR. NELSON: Is the name of this witness endorsed on the information?

MR. MOLL: I will see.

THE CLERK: (After referring to the information):

It is William Grohm on the information.

Q How do you spell your name?

A G-R-O-H-M--.

Q G-R-O-H-M?

A Yes, sir.

MR. MOLL: Do I understand that the defense objects to the introduction of any testimony by this witness?

MR. DARROW: Just a minute, I do not want to object. I don't suppose you will have many more here the same, will you?

MR. MOLL: I do not presume so. I imagine they are all on there.

MR. DARROW: I do not want to waive any rights I may have, but so far as this witness is concerned, I am not going to object.

MR. MOLL: If the Court please, I think it is proper to move that the name of the witness be endorsed on the information. But, I want it distinctly understood that I am not moving for this except with the consent of the defense. If the defense register no objection, and they are perfectly agreeable to it, if they acquiesce in it, I will move that the name of Joseph E. Grohm, this witness be endorsed on the information.

MR. DARROW: No objection.

THE COURT: The name will be endorsed, with the consent of Mr. Darrow.

Q Do you remember the exact day or date upon which you were first detailed to this particular locality?

A No, I am not positive whether it is the 5th or 6th.

Q Were you there under orders from inspector Schuknecht of the 5th Precinct?

A Yes, sir, I was.

Q Do you remember the occasion when the occupants of this house moved in on the 8th?

A Do I remember the date?

Q Yes.

MR. DARROW: No, do you remember the occasion?

Q The occasion when these people moved in?

A I do not know.

Q Do you remember the time of the shooting?

A I do.

Q Were you directed on that day to go to this vicinity?

A I was on reserve duty at the station.

Q Were you called to the scene on the 9th at any time?

A I was.

Q At what time?

A About 8:30.

Q Did other officers accompany you?

A Yes, sir.

Q What did you see or hear on your arrival up there?

A I was detailed on the flyer, and we got a call there, and we went to the scene there.

Q What did you see or hear? What happened after you got there?

A When we arrived at Garland and Charlevoix, we stopped at the corner there, and we got orders from the inspector to keep all people away from coming to this house.

Q When you say the inspector, you mean inspector Schuknecht?

A Inspector Schuknecht.

Q He was there at the time?

A Yes, sir.

MR. DARROW: This was after the shooting?

Q Yes, this was after the shooting. He was there on the scene at the time, wasn't he?

A He was.

Q All right, go ahead, please.

A I started down Garland Avenue to 2914, and somebody called that there was a man shot. I immediately turned around and ran to the corner and told the flyer to turn around and drive up Garland Avenue, that there was a man shot, and we would take him to the hospital. I went there and picked the man up, somebody else helped me along, got him by the

feet, and we put him in the flyer, and we took him to the hospital.

Q Where was this man that you refer to, that you picked up?

A He was sitting up against the porch at the house at 2914.

Q That, I understand, is a double house, and is right in the rear of the grocery store on the corner?

A Yes, sir.

Q I understand there are two steps leading to the porch of that house, one on the north and one on the south side of the house, in front?

A Yes, sir.

Q Against which steps was this man leaning?

A On the south side.

Q You mean nearest Charlevoix or farthest away from Charlevoix?

A Farthest from Charlevoix.

Q That would be the north side?

MR. DARROW: That is all right.

Q I call your attention to this diagram. Here is Garland Avenue and here is Charlevoix. Here is the Sweet house. Here is the grocery store. There is the house that you describe as No. 2914 - 2912 and 2914 Garland Avenue?

A Yes, sir.

Q I do not know whether you can see from where you are sitting, but we have marked in there the steps, one steps on the north and one on the south?

A Yes, sir.

Q You say that he was leaning against the steps farthest from Charlevoix?

A That would be on the north side.

Q That would be the north side?

A Yes, sir.

Q Did you examine him before you picked him up?

A No, sir, I did not.

Q Do you know whether he was dead or alive?

A He was still alive.

Q He was still alive?

A Yes sir.

Q Did he say anything to you?

A No, he was unconscious.

Q Unconscious?

A Yes, sir.

Q Did you accompany him to the hospital?

A I did.

Q You rode in the patrol with him?

A It was the flyer.

Q It was the flyer, you say?

A Yes sir.

Q Was he alive when you reached the hospital?

A About a minute.

Q That is, did you see him die?

A Yes, sir.

Q He died in the hospital?

A Yes, sir.

Q Could you see where he had been shot or where he had been injured?

MR. DARROW: There cannot be any question about all

of this.

MR. MOLL: No, I do not suppose there is.

MR. DARROW: There is no evidence offered here
by us -

MR. MOLL: For the purpose of connecting up the
deceased, or identifying - establishing the identify of the
deceased -

MR. DARROW: I have not asked you anything about
that, we are not going to raise any question, so I think you
are pretty well - -

MR. MOLL: I think I will ask for this proof,
thought.

Q Did you see where he had been shot?

A I did not see the wound, but I saw the blood on his chest.

Q Do you know the name of this man?

A Yes, sir.

Q What is it?

A His name was Briener, but the first name - I have got it
in my book.

Q Did you see any other person who had been shot in the
vicinity?

A They brought one man into the hospital after we were in
the hospital, and they said that he was also shot there.

Q Do you know his name?

A I have got it in my book.

Q Can you refer to it?

A Yes, sir. (After referring to note book): Eric Hagbreag.

Q Did you see anything in the hands of the deceased?

A Not in his hands; not in his hands, no.

Q Did you see anything in his mouth?

A Yes, sir.

Q What was it?

A He had a pipe.

Q He had a pipe in his mouth?

A Yes.

Q That was when you were picking him up from his position against the steps?

A Yes, sir.

MR. MOLL: That is all.

CROSS EXAMINATION

BY MR. DARROW:

Q You say that you were detailed there on the 5th and 6th?

A Yes, sir.

Q What were you doing there that day?

A I was detailed in the station on reserve duty.

Q With reference to this place?

A Yes, sir.

Q On the 5th or 3th?

A Well, I had been there in all about seven or eight days, I am attached to the Seventh Precinct.

Q This is in the Seventh Precinct?

A No, this is in the Fifth.

Q This is in the Fifth Precinct?

A Yes.

Q You were detailed to the Fifth?

A Yes, sir.

Q That is where you were waiting?

A Sir?

Q That was where you were waiting?

A Yes, sir.

Q You were detailed on the 5th in reference to Dr. Sweet's place?

A Yes, sir.

Q How many other men were detailed there?

A I had five from my station.

Q You were detailed on the 6th and on the 7th?

A Yes, sir.

Q And on the 8th?

A Yes, sir.

Q And on the 9th?

A Yes, sir, and after that also for three or four days.

Q How many did you have on the 8th and 9th there in reserve?

A From my station I had five.

Q Were there others detailed from other stations there?

A Yes.

Q How many were waiting there altogether?

A I could not tell you. I did not have charge of them.

Q You saw them, didn't you?

A I saw them there, yes. There probably was about 15 men, probably more.

Q Probably more?

A Yes, sir.

Q Would you say 20?

- A There might have been.
- Q They were waiting there on the 8th and 9th?
- A Yes, sir, they were there with me all the time.
- Q Detailed so that if anything happened, they could get up there?
- A Yes, sir.
- Q Of course, you were called after Briener was shot?
- A I presume I was.
- Q What kind of a machine was this that you used, a flyer?
- A It was a flyer.
- Q That meant that it was to take some injured person in, didn't it?
- A No.
- Q It meant that it was to be there in a hurry?
- A In a hurry.
- Q You were told where to go?
- A Yes, sir.
- Q You went right to that spot and found this man had been shot?
- A Yes, sir.
- Q You picked him up and carried him to the hospital?
- A Yes, sir.
- Q That is all.

MR. MOLL: That is all.

(The witness was excused).

THE COURT: Gentlemen of the jury, you are excused for a few minutes.

(The jury retired from the court room).

(A lady who had fainted was carried from the audience into a side room.)

(The following proceedings were had out of the presence and hearing of the jury:)

MR. DARROW: I want to object to her being in here.

THE COURT: State your objection on the record.

MR. DARROW: I want to object to members of the family being in here.

MR. TOMS: I want to assure your Honor, I did not know she was here, or that she had fainted.

MR. DARROW: I haven't any doubt about that, Mr. Toms.

MR. TOMS: And I do not think her identity is disclosed to the jury in any way.

MR. KENNEDY: Is this Mrs. Briener?

MR. TOMS: Yes.

MR. KENNEDY: She has got a right to be in here.

MR. DARROW: The jury, like everybody else, draw their own inferences very quickly. I do not blame anybody, excepting it is one of those things that ought not to prejudice the defendants. There is no occasion for members of the family as witnesses. If they are, they could be called from somewhere else. It is hard enough to defend a case of this sort anyway. I do not doubt Mr. Toms' statement on that, that he did not know she was here, but I did not know myself, and I want to take precautions against it in the future.

MR. TOMS: I did not know what the trouble was, until the jury had left the room. I never saw Mrs. Briener, I did not know she was here. It was not through any plan of

my own.

THE COURT: Did the officers know she was here?
Mr. Johnson, did you know Mrs. Briener was here?

OFFICER JOHNSON: Yes, I did.

MR. TOMS: There is no reason for the jury to know that this is Mrs. Briener, any more than any other woman who might have fainted in the court room, especially under the crowded conditions here.

MR. DARROW: Well, the jury would naturally draw that inference. Somebody must have known she came in.

MR. TOMS: The officer knows it.

MR. DARROW: How about it, Mr. Johnson?

OFFICER JOHNSON: Yes, I knew she was here.

THE COURT: Has she been here every day?

MR. TOMS: Oh, no.

OFFICER JOHNSON: No, not every day, no, sir.

She has been here two days, I guess.

THE COURT: She was here during the selection of the jury.

MR. TOMS: She was not here then.

THE COURT: Yes, she was; I saw her.

MR. TOMS: She was here one day. I know while the jury was being selected, some one representing her asked if she could come into the court room, and I told them that they had better wait until later in the case.

THE COURT: It was my guess that something like this would happen. I noticed her two or three times; she was here a part of the time. I could see her here. It

is only natural that something would happen. It is not difficult to understand. None of the rest of these people were allowed to sit over there by the jury.

MR. DARROW: I did not know it.

THE COURT: I could see her, each day. In the case of those people, I thought it might be best for them to sit outside of the railing. There was no reason for her being excluded. Everybody - of course, a lawyer recognizes the peril of a thing like this happening. That is what I wanted to avoid, for that reason.

(Discussion off the record)

MR. DARROW: I would like to ask how the jury went out? Was it on their own motion, at this time?

THE COURT: No, I dismissed the jury. You mean just now?

MR. DARROW: Yes.

THE COURT: I directed that the jury be dismissed, as soon as I observed that the woman was fainting.

MR. TOMS: Did your Honor tell them why?

THE COURT: No, I just said "Step right out." I do not think they even saw her.

MR. TOMS: I did not, and I don't think she was seen by the jury.

MR. DARROW: I have understood that the jury were looking that way, before that.

THE COURT: Some of them were. I noticed the ones at that end turned around and looked. I think there are some who did observe her. I believe some of them did.

MR. DARROW: They will all know it, of course,
now.

THE COURT: A couple of them did hesitate; so that I said, "Step right out gentlemen." But, I do not believe the members of the jury knew who it was.

MR. DARROW: Well, they are intelligent enough to guess.

MR. TOMS: We cannot assume that they are going to guess the way we guess.

MR. DARROW: May we have a few minutes' consultation, to consider what we ought to do?

THE COURT: Take a recess at this time for ten minutes.

(Ten minutes' recess taken at this point.)

MR. DARROW: Your Honor, just previous to your temporary adjournment, and leading up to the temporary adjournment, Mrs. Leon Briener, who is the widow of the deceased, was sitting in the courtroom, on the first seat outside of the railing; and she fainted, or had every appearance of it, anyhow, and fell over, in the presence of the jury. This Mrs. Brimer has been in the courtroom several times before coming in the first day when the jury was being empanelled, with her daughter -- coming in with her daughter, and as she seemed to be much agitated. She seated herself on the inside of the railing, and she was excluded from the railing, I think on the observation of the court. She came in again, and was finally, by the direction of the court, as I understand it, excluded

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from the courtroom.

THE COURT: Not from the courtroom.

MR. DARROW: From what part?

THE COURT: From the inside/^{of the}railing.

MR. DARROW: From inside of the railing. She has been here on a number of occasions. I, not knowing her, and my back being turned to her, did not know she had been here before this afternoon. Now, I do not know how she got in, or how she became seated there, or what the purpose was of her coming. But I would like to make some inquiries, first of the officer who had charge of it, Mr. Johnson, and the officer at the door, to find out how it happened. Then probably I will make a motion concerning it. Is Mr. Johnson here?

MR. TOMS: Wait just a moment please. I would like to have something to say about it. I object to the taking of any testimony. Whatever occurred here, occurred in the full view of the court. The judge saw it better than anybody else. This woman has a perfect legal right in the courtroom. How she got here is of no importance. She was here as a spectator. Her identity has not been disclosed to the jury. Mr. Darrow himself did not know she was here, and did not know who she was when she fainted. That is also true of myself. The jury were not informed who she was; and the incident is of no more importance than as if any other spectator had fainted, which might easily have happened, - - nor, than if one of the wives of the defendants, or the woman defendant, had fainted.

Now, any inquiry as to what happened, outside of the view of the jury, could not affect the situation in any manner. And, I object to taking any testimony.

MR. DARROW: I understand Mr. Toms has talked to her here.

MR. TOMS: I have never seen Mrs. Briener, and I did not know who she was.

MR. DARROW: In the courtroom, haven't you?

MR. TOMS: I never saw her, and I did not know who she was when she fainted. She ought to have every right to be in this courtroom. In fact, her right is superior to almost anyone's else.

MR. DARROW: I do not think she stands any different from any other citizen.

THE COURT: She has the right of every other citizen. She has the right to be here.

MR. DARROW: Yes.

THE COURT: If it were not for the fact of what I had observed myself, she would not have been excluded from the inside of the railing. That was done privately, and nobody knew anything about it. That was done because of what I observed myself, and, which, as I stated before, must have been strained and unnatural. It is a very natural thing for any person to be affected by the giving of testimony on the death of a member of the family. I do not see why inquiry from the officer, as to how she got here, is pertinent, Mr. Darrow.

MR. DARROW: Unless some special pains were taken

to get her in. Of course, I know there wasn't by Mr. Toms, for he tells us so.

MR. TOMS: I know there was not by anyone else. But, assume that there was; unless that was brought to the attention of the jury - -

THE COURT: She was not inside of the railing.

MR. DARROW: She was on the first seat outside.

THE COURT: The first seat outside?

MR. TOMS: If the court please, I think therecord ought to show the condition of this courtroom now; and that she was seated in the midst of probably three hundred spectators, with nothing to differentiate her from any other spectator.

MR. DARROW: That is true; but it is not the whole truth, however. She was seated on the first row; - -

THE COURT: Among the spectators.

MR. DARROW: Now, let me make this statement a little better. There is an inside railing, and a seat on both sides of the rail, which holds perhaps - -

MR. TOMS: Ten people on each side.

MR. DARROW: Ten people on each side.

MR. TOMS: In each row.

MR. DARROW: In each row. Back of that is a space of four or five feet, to the first railing in the courtroom, - - the first bench outside of the first railing; and she was seated in the front row, on the front bench, a bench which holds some - -

MR. TOMS: Twenty people.

MR. DARROW (After counting): Some ten people, up to the aisle. She was seated on the side of the aisle next to the jury, and within about ten feet of the rail, in plain view of the jury. While seated there, she fainted, and was carried from the room; and, she fainted in the presence of the jury. And, I would like to have the court find out how many of the jurors saw her. The jury was summarily sent out of the room, on her fainting. I guess that is about a fair statement of it.

THE COURT: Is there any objection to my asking the jury if it was observed? I will not ask it, if the defense will subsequently raise an objection.

MR. DARROW: Now, we are asking the court to do it.

THE COURT: It is growing out of this inquiry.

MR. DARROW: We are asking the court to do it, and waiving any objection we could have to it. Of course, the request itself does. I have no desire to enlarge on this, your Honor. My desire is simply to see that my clients get a fair trial. And if they cannot get it under the circumstances, I might make a motion to have a mistrial.

THE COURT: Is there any objection to this question: How many members of the jury observed that a spectator fainted? And, did any of them know who she was?

MR. MOLL: If the court please, it impresses me that would be prejudicial -- in the absence of a motion for a mistrial, for there has not been any such motion yet. I do not know whether counsel are going on a fishing expedition or not.

THE COURT: That is what I thought they were.

But I was wondering whether they have the right to do it. I assume they have the right to make this inquiry, preliminary to making the motion.

MR. DARROW: There is no question about it. I would not do it otherwise. I could make the motion first, but I would not insist upon it if I did not believe there was something prejudicial. But, I do want to be assured; I should be.

THE COURT: In this incident, I do not want either side to be hasty. Both sides must be calm and reasonable, and do what is the right thing here, in the interest of justice. There are eleven defendants, and the people of the State. It ought not to be looked at by either side in a spirit of combat, but to do just what is the fair and correct thing to do. That is what I want to arrive at, and that is what I want done.

MR. TOMS: Would your questions to the jury merely emphasize what, in their minds, is now a very hazy incident?

THE COURT: There is some question in my mind about that, Mr. Moll and Mr. Toms. That is why I asked Mr. Darrow if he would waive that.

MR. DARROW: I will waive - -

THE COURT: Any prejudice that could come up, as I understand it, would be to the accused. I do not think any prejudice could come to the People because of that. Do you?

MR. TOMS: No, I dare say it would not.

THE COURT: I do not think so. The only ones that could at least be affected, in my opinion, would be the accused. And if counsel for the defendants solicit it, having no objection to it, I think I ought to, at their request, if they want to make it, make that inquiry.

MR. TOMS: With the understanding that your Honor is not going to disclose to the jury who the woman was, of course.

THE COURT: No.

MR. DARROW: If your Honor should ask them if they knew, or - -

THE COURT: I will only ask those two questions.

MR. DARROW: Yes.

THE COURT: I will ask the jury first: How many of you observed a lady spectator fainting just prior to the recess? And, I will find out from them. And then I will ask: Do any of you know who the lady was?

MR. DARROW: Your Honor, of course, I want to enter into this in the spirit your Honor suggests. I did not mean that. But I do not feel absolutely sure of what is best, from my standpoint, to do. I do not think anybody could, if they are careful. Just a minute, and I will tell you.

THE COURT: Before you go into conference, I want to state this, that these questions will not be asked, and I have no desire to ask them, except on your solicitation.

MR. DARROW: I understand, your Honor. We have

got to take the responsibility. I understand that.

MR. TOMS: And it may be necessary to elaborate upon the statement of Mr. Darrow, as to the conditions in the courtroom at this time. I would like to reserve the right, if it becomes necessary, later.

MR. FRIEDMAN: Take a photograph.

THE COURT: I wonder if counsel will step over here for a moment, where I may talk to you.

(Discussion off the record.)

MR. DARROW: Your Honor, I would like to have the court ask the people who are sitting in the two front rows, outside, to permit us to interview them, on both sides, and see just what happened, or else have the court call them.

THE COURT: The court will not call them. But representatives of the people, the prosecution, and representatives of the defense may take the names and addresses of the people who were on the bench where Mrs. Briener was seated, and on the bench immediately in the rear; and then you can make such inquiry as you choose, as to the facts. Have somebody step down there at once and take them. Now, what else do you want to take up with me at this time?

MR. DARROW: I think I ought to ask your Honor to inquire of the jurors as to whether they saw ~~xxx~~^{her} and whether they surmised who she was; and perhaps the further question, as to whether they were in any way prejudiced. That is all I care to know from them.

THE COURT: What do you think about that third

question, Mr. Toms?

MR. DARROW: Well, you can leave that out, then, about the prejudice.

MR. TOMS: If they saw her, and if they know who the woman was?

THE COURT: Yes.

MR. DARROW: You can do it inside, or outside.

MR. FRIEDMAN: Some of the jurors may not have seen it, but it was told to them by the other jurors.

MR. DARROW: They probably all know it now.

MR. FRIEDMAN: If any one of them saw her, we can take it for granted that they all know it now.

MR. TOMS: I suppose it is true, that if any of them did see it, ^{and} all of them knew who she was, it could not prejudice the State, and we are in no position to object to it.

MR. DARROW: I am willing to let the court go in and consult them, and let him make a statement afterwards, or bring them out here.

THE COURT: I would rather have it done in the courtroom.

MR. DARROW: I think the court ought to ask the questions, however.

THE COURT: That is, ask the question as to whether or not they saw a lady faint, and if they knew who she was.

MR. DARROW: Or, surmised. I think probably it should be followed by the other question. I think probably they will tell us. I do not see any harm in the third

question being asked, do you, as to whether or not it would affect them in any way? They will probably say it won't.

THE COURT: I do not see what could be gained by it.

MR. TOMS: How ridiculous it would be, to think that a person whom you do not know, who faints in the courtroom, could have any effect upon their verdict.

THE COURT: I will not ask the third question.

MR. DARROW: They all know - -

THE COURT: I will not ask the third question.

MR. TOMS: I do not know how they would all know it.

MR. DARROW: We all surmised it.

MR. TOMS: I did not.

MR. DARROW: You did not see it.

THE COURT: Bring the jury in.

(The jury thereupon returned to the courtroom, and the following proceedings were had in the presence and hearing of the jury):

(The clerk called the roll of the jury, and all answered present.)

THE COURT: Gentlemen of the jury, just prior to the time that you were excused, did you observe that a lady spectator in the courtroom fainted, or became ill?

A JUROR: I did.

THE COURT: How many observed it? Raise your hands.

(A showing of hands was had.)

THE COURT: Four of you?

MR. TOMS: Five of you? Did you see it?

A JUROR: I did not hear the judge.

THE COURT: Did you observe/a lady spectator
that
fainted, just prior to the recess?

THE JUROR: I did not.

THE COURT: Then, four members of the jury.
I will ask you if any one of the four of you, or any other
members of the jury, know who the lady was that fainted?
If so, hold up your right hand?

(No hands were raised by the jurors.)

THE COURT: It does not appear that anyone
knows. All right, gentlemen, proceed.

MR. DARROW: I would like to reserve my right,
at the end of the day, to make that motion, or, hold it
over, to the first thing in the morning.

THE COURT: Very well.

- - - -

A N T H O N Y B L A S E R, was thereupon
called as a witness on behalf of the prosecution,
and having been first duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q What is your full name, please?

A Anthony Blaser.

Q And you are an officer of the Detroit Police Department,

(The following proceedings were later had in the absence of the jury).

MR. DARROW: I ask the Court to dismiss the jury--

THE COURT: -- discharge the jury.

MR. DARROW: -- discharge the jury and enter an order of mistrial on account of the incident of the wife of the deceased having fainted and been carried out partly in the presence of the jury.

THE COURT: The motion will be denied.

and were on the 9th of September of this year?

A Yes, sir.

Q Now, were you detailed, or did you go to the intersection of Charlevoix and Garland Avenue in the City of Detroit on the 9th of September?

A I went there on the flyer.

Q You left what station?

A The first precinct.

Q You were on the first precinct flyer?

A Yes, sir.

Q You were stationed downtown?

A Yes.

Q Is that the regular flyer, or reserve?

A Reserve.

Q And I understand that contained about fourteen officers, is that right?

A It did, our full company. But I couldn't tell you how many was on, when I went.

Q There were a number of officers in the reserve flyer?

A Yes, sir.

Q And they were all from the first precinct?

A Yes, sir.

Q About what time did you arrive at 2905 Garland?

A About 8:45 I think it was.

Q And what happened? What did you see or hear after you arrived there?

A Well, when we arrived there, Inspector Schuknecht was in front of the house, and he informed us that there had been some shooting, and our sergeant and the inspector

and myself and another patrolman entered the house, the front door.

Q Who did you see, upon entering the house?

A Dr. Sweet and his wife.

Q And where were they?

A In the hallway, right by the door.

Q Did you have any conversation with either of them?

A No, sir.

Q What did you do, on entering the house?

A Why, the sergeant said, "We will place these people under arrest." And I put one handcuff around Dr. Sweet's wrist, and I don't know who the other gentleman was, in there. I walked in the house then.

Q Another one of the inmates of the house?

A Yes.

Q In other words, you handcuffed two of the prisoners together?

A Yes, sir.

Q Did you take part in the search of the house?

A Yes, sir.

Q What part of the house did you search?

A We went all over the house, in the front room, and in the kitchen, in the hallway, upstairs, and up to the attic.

Q Did you find any guns or ammunition?

A I did.

Q What did you find please?

A A 38 Smith & Wesson revolver.

Q Well, where did you find it?

A Under a mattress, on the floor, upstairs.

Q In which room, please?

A The second from the front. The window faces the Charlevoix side.

Q The room on the Charlevoix side of the house?

A The window faces that side, yes, sir.

Q I will show you Exhibit 41, a Smith & Wesson revolver, nickel-plated, brown wood handle, bearing No. 275421.

Is there any identifying mark on there, outside of the number and appearance of the gun?

A A mark on the handle.

Q A mark on the handle?

A Yes.

Q Did you place it there?

A Yes.

Q Was this gun loaded at the time you found it?

A Yes.

Q How many cartridges?

A Five.

Q One chamber empty, is that right?

A Yes, sir.

Q Were any of the bullets discharged?

A No, sir.

Q I presume you unloaded the gun?

A I do.

Q What did you do with the gun after you found it?

A I turned it in to the police department. I put it in my pocket until I get into the precinct, and I turned it in to the sergeant, and they took it upstairs.

Q What did you do with the ammunition that you took out of the gun?

A I turned that in too.

Q Did you find any other weapons or ammunition?

A I found more ammunition there, a number of cartridges, I could not say just how many. There was some in a box, underneath the mattress, where I found the gun there. There was about half a box.

Q Do I understand this mattress was on the floor?

A Yes.

Q There was no furniture in the room?

A No.

Q Was the half box of ammunition that you found of the same caliber, suitable for this gun?

A Yes.

Q Did you find any other ammunition?

A Yes, I found some 45 caliber bullets, around in different sections of the house, some on the floor, and some that were concealed in the pockets of a coat that was hanging in a closet downstairs.

Q This ammunition that you found on the floor, was that upstairs, or downstairs?

A Some of it was upstairs and some of it was downstairs.

Q Well, you went all over the entire house, practically?

A Yes, sir.

Q Can you describe the upstairs, with reference to furniture?

A Why, in the front part there was a bed in there, and a couple of chairs, and some suitcases.

Q That was the front room, facing Garland?

A Yes, sir.

Q Were any of the other rooms furnished, as you remember it?

A Not upstairs, no.

Q Now, in the room where you found this gun, facing Charlevoix, was there any furniture?

A No, sir.

Q Other than this mattress on the floor?

A That is all.

Q Was your attention attracted to anything else in the room on your search?

A Not that I remember of.

Q State whether or not you saw any cigarette butts, cigar butts, ashes, or anything of that nature?

A No, I don't remember seeing anything like that.

Q Did you search? Were the electric lights on, or did you search it by the aid of a flashlight?

A I searched that room by the aid of an electric light.

Q Did you have any talk with any of the defendants while you were in the house?

A No.

MR. MOLL: I will offer Exhibit 41 in evidence if the court please.

MR. DARROW: No objection.

THE COURT: It may be received.

MR. DARROW: Is that all?

MR. MOLL: Yes.

CROSS EXAMINATION

BY MR. DARROW:

Q Did you see any glass in the front room on the floor?

A Not on the floor, no.

Q Did you look, under the window, the front window?

A I glanced around on the floor, yes, but I didn't see no glass there. I seen some on the window.

Q Did you see windows broken?

A No, I did not.

Q Did you look?

A No, sir.

Q Well, were there any broken?

A I couldn't say about that. I didn't see any windows broken. The windows I looked at were not broken.

Q Did you look for any glass on the floor?

A No. I was not particularly looking for any glass.

Q Did you look up close to the front windows?

A I did.

Q Did you see any cigarette butts there?

A No, sir.

Q Did you see any glass on the window sill?

A I didn't look on the window sill, in the front room.

Q Did you see any broken glass anywhere?

A No.

MR. DARROW: I guess that is all.

MR. MOLL: Mark that Exhibit 41, please.

(The revolver produced was marked People's Exhibit 41, November 9, 1925, H. R.H.)

MR. MOLL: That is all.

(Witness excused.)

1-A

J O H N N G E T K E, was thereupon called as a witness on behalf of the Prosecution, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Where do you live, Witness?

A 2915 Garland.

MR. DARROW: How do you spell the name? What is your name?

A John Getke.

Q Where is your house with reference to the Sweet house?

A It is next house north.

Q Were you living there on the 9th of September this year?

A Yes, sir.

Q Were you home that evening?

A Yes, sir.

Q What time did you get home?

A I couldn't say just about what time.

Q What?

A I couldn't say just about what time it was when I got home.

THE COURT: You will have to speak up more clearly.

A I couldn't say just about what time it was when I got home.

Q Well, do you work?

A Yes, sir.

Q Did you go home directly from work?

A I couldn't say.

Q What?

A I couldn't say.

Q Why couldn't you say?

A Because I don't just remember where I was working that day.

Q What is your business?

A I am a piano tuner.

Q Did you stop at any particular time, on every day?

A No, sir, no particular time.

Q Were you home for dinner?

A I don't remember that.

Q Do you know what meal I refer to when I say "for dinner?"

A For lunch at noon, the noon meal?

Q No. When I say dinner, I do not mean lunch.

A Oh, for dinner, yes, I was home for dinner.

Q What do you mean by that?

A The evening meals.

Q That is right. Now, we are on the same footing. You were home for the evening meal?

A I was.

Q After you had it, what did you do?

A I went out on my own front porch.

Q How many were there in your family?

A Two.

Q Just yourself and wife?

A Just myself and wife.

Q You have a single house?

A Yes sir.

Q You are the only family who occupies that building?

A Yes sir.

Q Did your wife go out on the porch with you after dinner?

A Yes, sir.

Q And how long did you stay there?

A Oh, I should say probably about ten or fifteen minutes.

Q And then what did you do?

A What did I do after ten or fifteen minutes?

A Yes.

A I went in the house.

Q Did you hear some shooting later?

A After I went in the house?

MR. DARROW: Or any other time?

Q Did you hear some shooting at all?

A Yes.

Q Where were you when you heard it?

A On the front porch.

Q I see. But you had only been there about ten or fifteen minutes before you heard it?

A About ten or fifteen minutes.

Q So that, do you know what time that was?

A I couldn't tell exactly. I should judge it was probably -

Q Was it dark?

A Yes, I believe it was.

Q Were the street lights lighted?

A Yes, I believe they were.

Q Was it nearer eight o'clock or seven?

A I think it was probably nearer eight, I should imagine.

Q Well, where were you on the porch when you heard the shooting?

A On the step of the porch.

Q There was just one step coming down from your porch?

A The usual porch step.

Q And where was your wife?

A I think she was sitting right beside me, on, I think as near as I can remember, about the same step.

Q Where was that, near the top or bottom?

A I couldn't say if it was the first, the second, or which one it was.

Q You were on the steps anyway?

A Yes.

Q Where did you hear the shots come from, or did you see them?

A I didn't see them.

Q You heard them?

A I heard them.

Q Where did they come from?

A Why, they come from the corner house. I imagine they would have come from the corner house.

Q Where did the sound come from, the sound of the shots?

A The sound of the shots, sounded as if they came from the corner house.

Q That is, the adjoining house, the Sweet house?

A The Sweet house.

Q How many shots were there?

A That I couldn't say just how many.

Q No, of course; I don't expect that you counted them. Was it one or ten thousand; give us your best estimate?

A There wasn't one, and there wasn't ten thousand. As near

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as I can estimate, there was probably 15 or 20.

Q 15 or 20?

A Yes, sir, something such as that.

Q That is your best judgment of it?

A That is my best judgment.

Q Do you know from which side of the house they came?

A I couldn't say.

Q Well, then, you went immediately in the house, did you?

A I did.

Q Did your wife go in too?

A She did.

Q Did you come out after that?

A After the shooting?

Q Yes.

A I don't remember whether we did or not. I don't remember.

Q Is that your final answer that you don't remember?

A Probably I did. I will say I did.

Q Well, what did you see, when you came out after the shooting?

MR. DARROW: I object. He does not know whether he came out or not.

MR. TOMS: He says he will say he did.

THE COURT: He says both. First he said probably, and now he says he did.

MR. DARROW: I object unless he says he knows.

Q You did come out after the shooting, is that your answer?

MR. FRIEDMAN: I will object.

THE COURT: Mr. Toms, ask him once more, what is

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his best recollection, whether he came out or not.

Q Did you or did you not come out of the house after the shooting?

A Allow me to think for a moment.

MR. DARROW: What is the answer? I did not get it.

MR. TOMS: "Allow me to think for a moment."

THE WITNESS: After the shooting? Yes, I think I did.

Q Do you know? Do you know?

A I am not positive, I cannot quite say.

Q Well, can you recall anything you saw, felt or heard after the shooting?

A (No response by the witness).

Q If so, it is with such great difficulty that I doubt if it would be valuable anyway.

A (No response by the witness).

MR. TOMS: You may cross examine this witness.

CROSS EXAMINATION

BY MR. DARROW:

Q You have been out since, anyway, haven't you? You have been out since that time?

A Oh, yes.

MR. DARROW: That is all.

MR. TOMS: That is all, sir.

M R S. D E L L A G E T K E, was thereupon called as a witness on behalf of the Prosecution, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q What is your name?

A Della Getke.

Q You live on Garland Avenue, north of Charlevoix?

A Yes.

Q Adjoining the Sweet home?

A Yes.

Q Were you home on the 9th of September at night?

A Yes, sir.

Q Did you go out on the porch after dinner?

A I did.

Q About what time?

A Well, it was a little after eight.

Q A little after eight?

A Yes.

Q Did your husband go with you?

A Yes.

Q And how long were you out there, do you think, before you went in again, if you did?

A About ten or fifteen minutes.

Q What did you hear or see?

A I heard shots.

Q How many?

A Oh, I couldn't say just how many.

Q Could you estimate how many?

A Probably 15 or 20.

Q Where did the sound come from? Did you see them?

A No, sir.

Q Did you see flashes of fire or powder?

A No, sir.

Q Where did the sound of the shots come from?

A From the corner house.

Q Was that the Sweet house?

A Yes, sir.

Q Could you tell from which side of the house?

A No, sir.

Q Did you stay on the porch after you heard the shots?

A No, sir.

Q You went in immediately?

A Yes, sir.

Q Did you come out later?

A No, sir.

MR. BEMS: Take the witness.

CROSS EXAMINATION

BY MR. DARROW:

Q You have lived there how long?

A Ten years.

Q Own your house?

A Yes sir.

Q When did you hear that Dr. Sweet was going to move in, how long before it happened?

A Perhaps a week or two.

Q Probably four or five or six, wasn't it? You heard of it five or six weeks before, didn't you?

A I didn't say that. I said three or four weeks before.

MR. DARROW: Read that answer.

(Answer read by the reporter)

Q Wasn't it five or six?

A Three or four.

Q Before?

A Before.

Q What?

A Before.

Q Yes. Don't you know it was six weeks or two months before they moved in?

MR. TOMS: Just a minute. I submit that the question has been answered definitely.

THE COURT: I think it has. I do not think there is any harm in repeating it.

Q (By Mr. Darrow): Didn't you know it six weeks or two months before?

A No, sir.

Q Now, I have got an answer. Do you remember who told you first?

A No, sir, I do not.

Q You do not know when you heard it?

A No, sir.

Q Do you know an organization called the Water Works Improvement Association?

A Yes, sir.

Q Do you belong to it?

A Yes, sir.

Q Does your husband belong to it?

A Yes.

Q When did you join?

A I couldn't say.

Q If you would think hard, couldn't you tell me?

A I can't remember.

Q What?

A I can't remember just when it was.

Q Have you ever tried to remember, or tried to forget, either one?

A I cannot remember.

Q Where were you when you joined it?

A I couldn't say.

Q You couldn't tell me?

A I couldn't say where I was.

Q Well, were you in any meeting when you joined it?

A Not that I know of.

Q How did you join it? What?

A Through an application card.

Q You signed an application card, is that right?

A Surely.

Q What?

A My husband signed an application card.

Q Well, where were you then?

A I couldn't say.

Q Did you ever sign one?

A No, sir.

Q How do you know he did?

A I know he did.

Q Well, how do you know it?

A I seen it.

Q Well, if you "seen it", where were you when you "seen it"?

A I was home when I seen it.

Q Who brought it there?

A My husband.

Q Do you know where he got it?

A No, sir, I couldn't say.

Q Do you know where it was that he got it?

A I couldn't say.

Q Have you any idea how long ago it was?

A No, sir, I haven't.

Q Do you know what it was for?

A Sure.

Q What?

A Improvement -

MR. TOMS: Just a minute, please. What is what for?

MR. DARROW: The organization.

MR. TOMS: The purpose of the organization was a matter of public record, and I think that record would be the best evidence.

MR. DARROW: Well, was that a matter of public record?

MR. TOMS: It certainly was.

MR. DARROW: Have you got it?

MR. TOMS: Yes. Do you want to see it?

MR. DARROW: Yes.

MR. TOMS: Right there. Here is the constitution.

It may interest you.

MR. DARROW: It might, and it might not.

(Examining document)

MR. DARROW: Did you ever attend any meeting?

A What meeting?

MR. TOMS: There was a question on the record that I objected to. May I have a ruling?

MR. DARROW: We will withdraw it then for the time being.

Q Did you ever attend any meeting?

A What meeting?

Q Of the Water Works Improvement Association?

A No, sir.

Q Did your husband?

A I couldn't say.

Q You couldn't say?

A No, sir.

Q Was there ever any meeting at the house?

A Whose house?

Q Yours?

A No, sir.

Q Was your husband on any committee of the organization?

A I couldn't say.

Q That you don't know?

A I couldn't say.

Q Did you ever know of any meetings out there?

A Yes, there was one.

Q Where was that?

MR. TOMS: Wait a minute; were you there?

A No, sir.

MR. TOMS: Objected to as incompetent.

THE COURT: Objection sustained.

Q Do you know whether your husband attended that meeting?

A I couldn't say.

Q You don't know whether he was away that night or not, I suppose?

A I couldn't say.

Q Or any other night?

MR. TOMS: That ought to be objected to.

MR. DARROW: Well, we ought to withdraw it. Yes, I will. Any man ought to.

MR. TOMS: We had better stick together, hadn't we?

MR. DARROW: Yes, we should.

Q Do you know whether your husband belongs to anything else than this?

A Anything else than this?

Q Yes, any organization?

A Not that I know of.

Q Of course, you don't know whether he belongs to anything that you don't know of. So that we will pass that too. Can't you give me any idea of when he signed that card?

A I cannot.

Q Do you know whether it was a year ago?

A No, I don't think it was as long as a year ago.

Q Do you know whether it was six months ago?

A I couldn't say.

Q Do you know whether it was three months ago?

A I couldn't say.

Q Do you know whether it was two months ago?

A I couldn't say.

Q All you know is that it was not a year ago, is that right?

A Surely.

Q What?

A It was not a year ago.

Q Did anybody come to you and talk to you about it before you joined?

A I don't remember.

Q Now, on that night, your husband came home and got his - we will call it supper; that is the way I first learned it; he came home and got his supper, didn't he?

MR. FRIEDMAN: Identify the night, September 9th?

Q Do you remember the night this shooting occurred?

A Yes, I remember it.

Q What night was it?

A The night of the 9th.

Q That is right. That you do remember?

A Why sure.

Q And you remember whether he signed that card before or since, don't you?

A Before.

- Q Now, on that night, which was the night of the 9th of September, your husband came home and got his supper?
- A Yes, he did.
- Q How long was he in the house after he got home?
- A I couldn't say.
- Q Any idea?
- A I couldn't say.
- Q You couldn't say whether you have an idea or whether you haven't any? Haven't you any idea how long he was in the house before he went outside?
- A I haven't.
- Q Could you estimate it in any way?
- A I couldn't.
- Q Give an opinion about it in any way?
- A No, sir.
- Q What time was he in the habit of coming home?
- A No set time.
- Q So, he did not have any habit about that matter; it was just as it happened. Did you have supper ready when he came home?
- A I don't remember.
- Q Do you remember having supper?
- A Well, I certainly do.
- Q You remember that particular night, that you did have supper?
- A I always have supper every night.
- Q Well, I am speaking of that night?
- A Yes, sir.
- Q Do you remember what time you had supper?

A No, sir, I do not.

Q Or what you had to eat, you don't remember that either, do you?

A Well, that is telling.

Q "That is telling." All right, I am not interested especially. I was just testing your memory. Do you know whether it was light or dark when your husband got home?

A I couldn't say.

Q Do you know what day of the week he got home?

MR. TOMS: Wait just a minute. I don't understand that question.

Q Do you know what day of the week it was?

MR. TOMS: That he got home?

MR. DARROW: Yes, at this time.

MR. TOMS: Do you mean what day of the week this was?

MR. DARROW: Yes, the 9th of September?

A Wednesday, I believe.

Q Wednesday night?

A Yes.

Q You haven't any idea what time he got home?

A I haven't.

Q Did you talk with him any while he was in the house?

A I suppose I did.

Q Do you know what you talked about?

A No, sir, I do not.

Q Did you say anything about the Sweets moving in?

A Not that I remember of.

Q Did you ever talk with him about it?

A I couldn't say.

Q Were you there when they moved in?

A No, sir I was not.

Q Where were you?

A Down town.

Q Where?

A I was downtown.

Q Were you there the day they moved in?

A No, sir.

Q Did you stay down town all night? Did you get home on that day?

A Well, I certainly did.

Q What time of the day?

A I couldn't say.

Q Did you have supper that night?

A I expect I did.

Q How long before the 9th was it that they moved in?

A I don't understand your question.

Q How long did they move in before the 9th?

A I understand they moved in on Tuesday.

Q When did you find that out?

A When I came home.

Q Who told you?

A Everybody knew about it.

Q You got it from everybody, is that it?

A (No response by the witness).

Q There was considerable excitement in the neighborhood

about it, wasn't there?

A I expect there was.

Q You know, don't you?

A I guess there was.

Q Did you talk with your husband about it that night?

A Not that I know of.

Q Did you talk with your husband on the next night, on the 9th, about it?

A (No response from the witness).

Q Do you know whether you did or not?

A I don't remember.

Q You say everybody knew it. How do you know they did?

A Why, they must have.

Q Well, why do you say so?

A They couldn't help but know it.

Q Why couldn't they help but know it? Can you tell me why?

A (No response from the witness).

Q Does everybody always know when people move in and out of that neighborhood?

A Oh, I don't know as they do.

Q Well, then, why did they, in this instance?

A I couldn't say.

Q You couldnot say?

A No.

Q It was not because they were colored people, was it?

A I couldn't say.

Q Now, don't you know?

MR. TOMS: No, she does not know. I will object to

any such question, about what everybody knew.

Q Don't you know it?

MR. TOMS: The question is objected to, - to bring it to a head.

THE COURT: Objection sustained.

Q Did you hear it from all kinds of people on the street that day?

A All kinds of people?

Q Yes, people, your neighbors and everybody else?

A (No response from the witness).

Q You can answer that, can you not?

A Say the question again.

Q Did you hear it from your neighbors and the people in general?

A On the 8th?

MR. TOMS: That is objected to.

THE COURT: She can answer yes or no, whether she heard it?

A I did.

Q You visited your neighbors that day and the next day, didn't you?

A No, I didn't visit anybody in particular.

Q Did you visit anybody at all?

A No.

Q Did anybody visit you?

A No, sir.

Q Did you use the telephone in relation to it?

A What is that?

Q Did you talk about it over the telephone?

A No, sir.

Q How?

A No, sir.

Q How did you hear it then? How did you hear it?

A (No response from the witness).

Q Can you tell me how you heard it?

A (No response from the witness).

Q Well, you can tell me that? Or, you can't tell me, can you?

A No, I can't tell you.

Q All right.

MR. TOMS: She cannot tell you, that is the answer.

Q You went out and sat down ten minutes, and heard somebody shoot and went back in, is that right?

A I said I was out ten or fifteen minutes.

Q All right. Ten or fifteen minutes. Did you have any talk with your husband while you were there?

A While I was out?

Q Yes.

A Not that I remember of.

Q Then you went right back in?

A I went back in.

Q And then did not come out again until the next day?

A I don't remember.

Q You don't remember whether you came out again that night?

A I don't remember.

Q You don't remember anything that happened when you came out, do you?

A I don't remember.

Q You don't remember whether you remember, is that it? Can you remember anything that happened after you came out if you did come out?

A No, sir.

Q You don't remember whether you did come out?

A I said I don't remember.

Q When is the first time you remember of coming out, after that shooting?

A I don't remember coming out.

Q Do you know the people who lived in the house before the Sweets moved in?

A Yes.

Q How long had you known them?

A Know who?

Q The people who lived in the house before the Sweets came in?

A I couldn't say. Probably two or three years.

Q What was the man's name?

A De Grott.

Q The man who lived there?

A DeGrott.

Q DeGrott. What color was he?

A White.

Q He was?

A As far as I know.

Q Do you know that he was white or colored?

A He was white.

Q Did you ever visit with him?

A Passed the time of day.

Q Did you ever go into the house?

A No.

Q Or he in yours?

A No, sir.

Q And you say you think he was white?

A Yes.

Q Do you know whether a Mr. and Mrs. Smith lived in that house before Mr. Sweet moved in?

A Why, there was, yes.

Q Did you know them?

A I knew them to speak to them. I knew her.

Q Did you know him?

A I never saw the man.

Q You never did?

A No.

MR. DARROW: That is all.

MR. TOMS: That is all.

(Witness excused).

- - - -

J O S E P H H E N L E Y, was thereupon called
as a witness on behalf of the Prosecution, and having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Your full name is Joseph Henley?

A Henley, yes.

Q And you live at 2914 Garland?

A 2912 Garland.

Q That is in the same building with Mr. Dove?

A Yes, sir.

Q You live upstairs?

A In the upper flat.

Q Were you home on the night ^{of} September 9th?

A Yes sir.

Q After your evening meal?

A Yes.

Q What time did you get home?

A I got home about 4:30, I guess it was.

Q Where do you work, Mr. Henley?

A At the Water Works Pumping Station.

Q You got home about 4:30?

A Yes.

Q What time did you have your dinner?

A I guess it was - I don't know just exactly what time it
was I had it, but it was later than usual.

Q How late was that?

A About 7 o'clock.

Q About 7 o'clock you finished?

A Yes.

Q And what did you do?

MR. DARROW: Where did he say he lived?

MR. TOMS: He lives in the Dove house, 2912.

MR. DARROW: Yes, I know now.

Q What did you do after dinner?

A Well, I went in the living room and sat down and started to read the paper; that is, I was reading the paper some.

Q Then what did you do?

A I did not do anything particularly. I got up and looked out the window and turned around and I came back towards the table again, and I heard some firing.

Q Where was your wife at that time?

A She was there in the house when the firing first started.

Q Did you go downstairs then?

A I did. I stopped to put my shoes on before I went down. She went right down.

Q She went down ahead of you?

A Yes, sir, she was down there ahead of me.

Q Was there any shooting at the time you got downstairs?

A None after I got down, no, sir.

Q When you got down stairs, what did you hear?

A Why, I saw a man lying at the end of the steps, hollering.

Q What was he saying?

A He was just moaning, kind of hollering, "Oh".

Q Well, what did you hear around the neighborhood?

A Well, I saw some cops, policemen, and a few other people.

MR. DARROW: What? Read that answer.

(Answer read by the Reporter)

Q Did you ever look over towards the Sweet house?

A Yes, sir.

Q What did you see over there, if anything?

A I don't remember of seeing anything over there at that time.

Q Did you see a mob of people?

A No, sir.

Q Did you see a large group of people anywhere?

A Well, after the shooting, I saw a large group of people
back - -

Q No, I mean when you came downstairs?

A No, sir.

Q The shooting was just over, then, was it?

A Yes, sir.

Q At that time you did not see any congregation of people
around?

MR. DARROW: I object as leading.

MR. TOMS: I am repeating the answer.

MR. DARROW: Well, it is leading, and it is repeating.

THE COURT: Objection sustained.

Q Did you see any people, any civilians there in front of
the Sweet house?

A No, sir.

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Q Could you hear the shots distinctly upstairs?

A Yes, sir.

Q Of course, it being warm, your windows were open, I suppose?

A Yes.

Q How many shots did you hear, to the best of your recollection, or your estimate?

A It would be hard to say. I would say about fifteen or twenty.

Q Of course, you did not see where they came from?

A No, sir, I didn't see any shots.

Q Were they fired in one volley?

A No, there was two volleys.

Q you had not been out on the street from the time you came home from work until you went down immediately after the shooting?

A No, sir, I had not.

Q So that you do not know what the conditions were, then?

A No, sir.

Q You came home about four thirty you think?

A About that, yes, sir.

Q That is your usual time?

A Yes, sir.

Q At that time what was the situation around the house?

A Why, there wasn't but very few people on the streets at that time, a few going to the store, as usual.

Q Did you see the police officers there?

A Yes, there were police officers there.

Q How many did you see if you can recall?

A I don't remember just how many therewas. In fact, I never did know how many were there.

Q Where did you see them?

A On the corners, across from the house, on -- I believe there was one on the northeast corner, and one on -- probably two on the southwest corner.

MR. DARROW: Is he talking about policemen, or others?

MR. TOMS: Yes, policeman.

A I can't say just how many I did see.

Q (By Mr. Toms): Was there any crowd of people on the street at that time?

A No, sir.

Q Did you see anyone enter or leave the Sweet house?

A No, sir.

MR. TOMS: You may cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Mr. Henley is your name, is it?

A Yes.

Q You work for the Waterworks Pumping station?

A Yes.

Q Not for the Waterworks Improvement Association?

A No, sir.

Q Do you belong to that?

A No, sir.

Q You have heard about it, haven't you?

A Yes, sir.

Q Do you know a man named Dove?

A Yes, sir.

Q He lives in the same building with you?

A Yes, sir.

Q He lives in the lower flat, and you in the upper?

A Yes, sir.

Q How long have you lived where you are now? Do you know how long you have lived in the same place?

A It will be three years in January, the 13th of January.

Q You do not own that place?

A No, sir.

Q Do you know who does own it?

A Yes, sir.

Q Who?

A Mark Dunn.

Q Does he live there?

A No.

Q Near there?

A He lives out on Ashland, I don't remember his address.

Q All right. Now you got home about four thirty, did you?

A About four thirty, yes, sir.

Q And went upstairs to your apartment?

A Yes, sir.

Q And stayed there until you heard the shooting?

A Yes, sir.

Q What were you doing all that time?

A Why, I did not have anything particular to do, when I came home in the evening, and I usually take a little nap before supper.

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MR. TOMS: A very commendable thing.

Q (By Mr. Darrow): When there is nothing else to do, you take a nap?

A When there is nothing else to do. That is what I did that evening.

Q I approve of that. So you went home, and went to bed?

A Yes, sir.

Q And went to sleep?

A Yes, sir.

Q And slept until they called you for supper?

A Yes.

Q And about what time was that?

A About seven o'clock.

Q And then after you got through with your supper, -- I do not suppose that took over a half an hour, did it?

A I don't know just how long it did take.

Q Well, what did you do after you got through with your supper?

A Went out in the living room and sat down and read the paper a little while.

Q And you took your shoes off?

A Yes, sir.

Q You had taken them off before, I suppose?

A I had my shoes off already.

MR. TOMS: Some of us do, when we go to bed, anyway.

Q And you went and put them on again?

A Yes, sir.

Q And then you sat down and read the paper?

A Yes, sir.

Q And your wife of course was washing the dishes and things like that?

A Yes, sir.

Q As a wife should. And the first thing you knew, you heard a shot, or two or three or four, or whatever it was?

A I heard a number of shots, yes, sir.

Q You had not gone from the room, you had not gone out of the room from the time you came in, or out of your apartment, until after the shooting?

A No, sir.

Q And you went right straight downstairs as soon as you put your shoes on?

A Yes, sir.

Q And your wife with you?

A She went ahead, of me.

Q Just immediately ahead of you?

A Well, she went down while I was putting my shoes on.

Q She had hers on, I assume?

A Yes, sir.

Q She had that much start of you?

A Yes.

Q When you got down there, did you see Dove?

A I don't remember whether I saw Mr. Dove or not.

Q Did you see his wife?

A Yes, I saw her.

Q Where was she?

A She was on the front porch.

Q What was she doing?

A Standing there.

Q Let's see, he has got a baby, hasn't he, or a child?

A Yes, sir.

Q Did you see the baby?

A I don't remember seeing the baby as I went out the door, or as I went down. I saw it right afterwards.

Q Whereabouts?

A On the porch.

Q Did you see anybody else on the porch, as quick as you went down?

A I can't say for sure. I passed out, and went out into the yard, and did not pay a great deal of attention/^{to} who I was seeing.

Q Did you see anybody else out in front, as soon as you went down?

A I saw an officer pass by the steps.

Q What?

A I saw an officer rush by the steps.

Q Anybody but an officer?

A No, sir.

Q Nobody around there at that time?

A Not right in front of the house.

Q How near it was anybody, or don't you know?

A I don't know.

Q You did not take any notice?

A No, sir.

Q You did not take any notice of what was going on around

there at that time?

A No, sir.

Q Did you go back up there after the man was taken away?

A I went to the telephone around the corner, to the telephone.

Q On your own account?

A Yes, sir, on my own account.

Q May I ask you, who you telephoned to?

A Police headquarters.

Q There had been no policeman there at that time?

A Yes, sir.

Q Had they instructed you or asked you to telephone?

A No, sir.

Q You telephoned for more police?

A Yes, sir.

Q Did you get somebody at the other end of the phone?

A Yes, sir.

Q And you told them to bring more police?

A I told them that those people in that house were shooting the neighborhood up.

Q And what did you say about bringing more police?

A I says -- I didn't know at that time that there had been anybody to the house at all, and I asked them to send somebody out to protect the neighborhood as well as the people in that house.

Q Did you say "As well as the people in that house"?

A Yes, sir.

Q You said the people in the house were shooting the neighbor-

hood up?

A Yes, sir.

Q And you wanted them to send somebody out to protect the neighborhood as well as the people in the house?

A Yes, sir.

Q You did not think they were in any danger, did you?

A The people in the house?

Q Yes.

A No, sir.

Q But you put that in?

A Yes, sir.

Q And you did not know then that there were any policemen out there?

A Yes, sir.

Q I thought you told me you did not know?

MR. TOMS: He said that, when he was coming home from work.

MR. DARROW: I know he did, at one time.

Q Do you know how many?

A I don't know how many.

Q You don't know anything about how many policemen were there?

A I don't know how many were there.

Q How many had you seen coming home from work?

A Oh, possibly three or four, I don't know for sure.

Q You haven't any idea how many you saw?

A No, I haven't.

Q You didn't pay any attention to that?

A No, sir. I wasn't paying a great deal of attention to

how many there was there.

Q Were you interested in this matter of the colored man moving in the neighborhood?

A Well, in what way?

Q Well, was it a matter of any concern or importance to you, or that interested you in any way?

A I had not taken any hand in it.

Q You had not ~~not~~ joined the Waterworks Association?

A No, sir.

Q Had you been asked to?

A No, sir, I had not.

Q You are sure about that, are you?

A Yes, sir.

Q Have you ever attended any meetings?

A I had not, before the trouble, no, sir.

Q Did you afterwards?

A Yes, sir.

Q When?

A The night of the 10th of September.

Q That is the next night?

A Yes.

Q Where was that meeting?

A At Oddfellow's Hall, the Amity, on Parkview.

Q How many were there?

A I don't know, sir.

Q Did you join then?

A No, sir.

Q There was a thousand at that meeting, wasn't there?

A There was quite a few there. I don't know just how many there were there.

Q Have you attended any of their meetings since?

A No, sir.

Q Up to that time, you had paid no attention to it?

A No, sir.

Q You had heard that Dr. Sweet was a colored man, and was coming into the neighborhood, hadn't you?

A Yes, sir.

Q That, you knew?

A Yes, sir.

Q And how long had you known of it?

A I knew that I had heard of him coming. I did not know that he was coming; but I knew that I heard that he was coming.

Q How long before, had you heard it?

A I don't remember.

Q Where had you heard it?

A Just rumors.

Q Rumors around the neighborhood?

A Yes, sir.

Q Did you know the Smiths who lived in there before?

A No, sir, I didn't know them before.

Q Had you ever seen them?

A I saw the woman, the only one that I remember seeing.

Q Did you ever see the man?

A No, sir.

Q You had heard that he was colored, however, hadn't you?

A I heard he was - - I heard that he was colored, after they had sold out.

Q You mean he "got colored" after they sold out?

A No, I didn't hear it until after he had sold out.

MR. DARROW: That is all.

THE COURT: Adjourn court now until tomorrow morning at ninethirty.

(Whereupon court adjourned until the next day, Tuesday, November 10th, 1925, at 8:30 o'clock A. M.)

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STATE OF MICHIGAN
IN THE RECORDERS' COURT FOR THE CITY OF DETROIT

THE PEOPLE

-vs-

OSSIAN SWEET,
et al.

Testimony taken before Hon. Frank J. Murphy,
and a Jury, Tuesday, November 10th, 1935.

APPEARANCES:

Parties present as before.

VOLUME V.

ARTHUR WEINBERG
2334 E 68TH ST
CHICAGO 49 ILL

Tuesday, November 10th, 1925

9:30 o'clock A. M.

MARY HENLEY, called as a witness
in behalf of the People, being first duly sworn, testified
as follows:

DIRECT EXAMINATION

BY MR. TONS:

Q Your name is Mary Henley?

A Yes, sir.

Q And you live at 2912 Garland Avenue?

A Yes, sir.

Q Did you live there on the 9th of September, this year?

A Yes.

Q You will have to talk much louder, Mrs. Henley. These jurors want to hear you?

A Yes.

Q Were you home that night?

A Yes, sir.

Q From dinner time - - that is, your evening meal, from that time on?

A Yes.

Q What did you do after you had had your dinner, Mrs. Henley?

A Oh, as soon as I finished, I went into the sitting room.

Q You live on the second floor?

A Yes, sir.

Q Yes. And then what did you do?

A Why, I heard some shots then.

Q You heard some shots?

A Yes.

Q Had you been downstairs before that?

A Why, I was down about three o'clock to get the paper, not since then. *when I came here from school*

Q You didn't go out after that?

A No, sir.

Q Until you heard the shots?

A No, *yes*

Q Then did you go out?

A Yes, I went downstairs.

Q Your husband was home at that time?

A Yes.

Q He testified here yesterday?

A Yes, sir.

Q Well, when you got downstairs, after you heard the shots, what did you see?

A Why, I saw a few people, some people on the porch.

Q On your porch?

A Yes. Just people that lived there, I didn't notice anyone else on the porch. *some of the boarders*

Q That was Mr. Dove?

A Yes, I saw Mr. Dove and Mrs. Dove.

Q And their child?

A Yes.

Q And who else?

A Why, I didn't notice anyone else.

Q All right. Then what else did you see?

A And as soon as I got down there the second volume of shots started.

MR. DARRON: Can't you speak a little louder?

A I will try. I say, as soon as I got down the second volley started.

Q Of shots, you say?

A Yes.

Q Did you see them?

A Yes, sir, I saw them.

Q Where did they come from?

A They came from the upstairs windows on the north side.

Q ~~North side of the house?~~

A ~~Of the Sweet house.~~

Q That is, on the northwest corner of Garland and Charlevoix?

A Garland and Charlevoix.

Q The shots that you saw came from which windows?

A The upstairs, side windows, north windows.

Q Of the north side of the Sweet house, the second floor?

A Yes.

Q Well, then tell us what happened after that?

A Why, I went inside, downstairs then.

Q Did you see anyone who had been shot?

A Well, I didn't see him. I heard him. I couldn't see him for the people that were around picking him up then.

Q You heard someone say something?

A I heard him groan, holler.

Q Groan?

A Yes.

Q And where was he, the man who was shot?

- A He was on the steps of the downstairs flats.
- Q And there were people around there, were there?
- A Yes.
- Q How many?
- A Well, I don't know, four or five.
- Q Did you see any police officers there?
- A Not with him.
- Q Did you later?
- A No.
- Q Did you see officers anywhere on the - -
- A Saw them walking on the streets.
- Q Then you went back in the house?
- A I went in the house downstairs.
- Q Did you stay there?
- A Why, I stayed a few minutes until I heard they were taking negroes out.
- Q Then did you come out on the street again?
- A Came out on the porch, and there was one - -
- Q You didn't leave the porch?
- A No.
- Q When you went in the house at three o'clock, you said you came down for the paper?
- A Yes.
- Q How long were you out of the house?
- A Oh, just a few minutes.
- Q Did you observe the conditions around the neighborhood at that time?
- A Why, I noticed - -

Q Just did you?

A Yes.

Q Did you?

A Well, yes.

Q Did you notice any police officers?

A Yes.

Q Where did you see them?

A Oh, walking along the streets - -

Q Which side of - -

A - - on the corner.

Q What street?

A Well, most of them were on the - - the side that had the - - Sweet house is.

Q That is, the west side of Garland?

A Yes.

Q How many did you see over there, if you remember?

A I don't remember it.

Q Were there any on your side of the street, the east side?

A I didn't see any.

Q Did you see any down on Charlevoix?

A No, I didn't notice any.

Q How many people were there around in the neighborhood?

A Why, I didn't notice any in the afternoon when I was down.

Q Were there any crowds?

A No.

Q Groups of people?

A No.

Q You didn't see the man who was shot yourself?

A No, I didn't see him.

Q Did your husband come downstairs after you did?

A Yes, sir.

Q Did you see any places where bullets struck?

A Yes.

Q Where?

A One was in my glass door, downstairs door.

Q That is, at the bottom of the stairs leading up to your apartment?

A Yes.

Q There is a glass door?

A Yes.

Q Where - - did you see that strike?

A I didn't see it, no, I wasn't looking that way.

Q Did you hear it?

A Yes, I heard it.

Q What did you hear?

A Why, I just heard the glass break.

Q And then did you look at the door?

A No, I didn't. I got inside.

Q Did you see the door later?

A Yes.

Q What condition was it in?

A It was broken.

Q How far away from the door were you standing when you heard it?

A Why, I was right up against the facing of it.

Q You what?

A I was right next to the facing, door facing.

Q Well, I will show you Exhibit 18, which has been admitted in evidence. Is that a photograph of the door you are speaking about?

A Yes.

MR. DARROW: Is that admitted?

MR. TOMS: Yes.

(The exhibit was then shown to Mr. Darrow.)

MR. TOMS: My mistake. I thought it was received.

Q I will show you Exhibit 18 anyway, and ask you whether or not that is a picture of the door and steps leading up to your apartment?

A Yes, it is. I am sure it is. I know the curtain.

Q You know the curtain?

A Yes.

Q Is this the door that you saw the hole in?

A Yes.

MR. TOMS: I will offer this exhibit in evidence under this witness' testimony.

MR. HAYES: That is objected to on the same grounds stated before. These photographs are objectionable, your Honor, why, they were all objectionable even though the witness testified to that, and I will say the witness stated the fact. What is the reason for the photograph?

THE COURT: That is the exhibit that was excluded?

MR. HAYES: Yes.

THE COURT: Isn't it?

MR. TOMS: Your Honor will recall that I reserved the right to re-offer it on later testimony.

MR. HAYES: That was of course, the ground of the objection on our part, that nobody testified to it.

THE COURT: You re-offer one of these three, one of the two that was left?

MR. TOMS: Yes.

THE COURT: It will be excluded.

MR. TOMS: Your Honor, I am not pressing this matter. I am laying the foundation for some authorities, which I wish to present to you later.

Q I will show you Exhibit 16, and ask you if that is a correct picture of the door that you just testified to?

A Yes.

MR. TOMS: I will offer Exhibit 16 in evidence.

MR. HAYES: Objected to on the same ground.

THE COURT: Let me see it.

(The exhibit was handed to the court.)

THE COURT: The objection is sustained. It will be excluded.

Q You say you were standing right up against the door facing. I don't know what you mean by that, Mrs. Henley?

A Well, I was just out in front of the door, back against the wall, and my arm here up on the facing. /^QThe facing, you mean the door jamb, which goes around the frame of the door?

A Yes.

Q Your arm was up against that?

A Yes.

Q That is, which arm?

A Left arm.

Q Well, let us assume that this door of the jury room is the door leading up to your apartment. Will you come and stand as you were standing when you were - - when the hole was made in the door?

A (indicating) Right like this.

Q Can you see it now?

JURORS: Yes.

Q Now, will you point to the place on the door where the bullet went through?

MR. HAYES: Just a moment. Your Honor, what difference does it make? We are not on trial for that. There is no issue about this hole, or that various bullets struck at various ^{places.} ~~places.~~ Is the prosecutor is trying to prejudice us because somebody was in a nearer place where a bullet was struck?

MR. TOMS: I am trying to show where this witness stood, and what happened, a part of the res gestae. There is a question about everything that isn't proved.

MR. HAYES: She has stated what she saw, and what she heard, and that is the whole story that is material in this case. She stated that a bullet struck in a certain place; that might be evidence, but as to where she stood, and the relation of the bullet that ~~was~~ ^{any place else,} struck /_and that sort, are not evidence, it cannot have any possible purpose except to prejudice the jury against the defendants.

MR. TOMS: What prejudice can it have on any of these defendants to include that? I do not concede that the defense can limit what I prove so far as it is competent.

I propose to prove everything that is competent, part of the res gestae. Whether the defense thinks it is important, or not.

MR. HAYES: That is, of course, for the determination of the court.

MR. TOMS: I may have proved it, but I may prove it by other testimony, and further witnesses.

MR. HAYES: Your Honor, for the reason that it is an attempt to prejudice the jury. What is the use of it? The facts are ^{admitted} in. The bullet, everything is admitted. The lady testified to everything she saw and heard.

MR. TOMS: If it is prejudicial, why was I permitted to even show that the bullets struck. That is merely a furtherance of that proof.

MR. HAYES: Because I take it you have the right to show where a bullet struck, show the number of bullets that came out of that house, if the witnesses testify they did, but that seems to me about the limit. Suppose, each one of these people were ^{there} standing in groups, were standing there near, these children were standing there, bring up a baby that was standing there, and get everybody all excited, about what nearly happened, it could have no effect except prejudicial effect.

MR. TOMS: If it actually happened, I don't care whether it is prejudicial, or not. I presume that all of our testimony is prejudicial to the defendants, because it proves a crime against them.

MR. DARROW: Not yet. That is the question.

THE COURT: The objection is overruled.

MR. HAYES: Take an exception.

Q Now, will you come back? You are now standing in the position which you were standing in with reference to the door when the bullet went through the glass?

A Yes.

Q Point on the door, to the corresponding place where that bullet went?

A (Indicating): Right here.

Q From the point to a spot about two or three inches from the edge of the door nearest your left arm?

A Yes.

Q All right.

MR. MOLL: About three feet from the ground.

Q And at a height between your elbow and your shoulder?

A Right here (inaudible.)

MR. HAYES: Objected to. I ask that that be stricken out.

THE COURT: It will be stricken out.

MR. TOMS: Cross examines.

CROSS EXAMINATION

BY MR. DARROW:

Q You came downstairs three o'clock in the afternoon?

A Yes, sir.

Q For the paper?

A Yes, sir.

Q Where did you get the paper?

A On the porch.

Q Picked it up and went back, did you?

A Yes.

Q Didn't stay a ny length of time?

A No. I didn't stay but a few minutes.

Q Did you do anything while you were down there except pick up the paper?

A No.

Q Hadn't any other business down there, and you picked it up and went back, didn't you?

A Yes, sir.

Q And you went in the apartment, went in your flat, and stayed there until around 8 or 8:25 at night, didn't you?

A Yes, sir.

Q Didn't go out?

A Didn't go out for a moment.

Q 8:25, you heard some shooting?

A Yes, sir.

Q Immediately ran downstairs?

A Yes, sir.

Q When you got downstairs, who was on the front porch, if anybody?

A Why, Mr. and Mrs. Dove, and their baby, I don't remember anyone else.

Q Will you read that?

(The answer was repeated by the reporter.)

Q Was there anyone else there?

A Somebody on the walk, a few - -

Q I mean, on the porch?

A No, not on the porch.

Q You had been there that evening, on the porch?

A You mean, in the afternoon?

Q Yes, or early in the evening, you hadn't been after three o'clock?

A No, I hadn't been down since three o'clock.

Q Your husband hadn't been there?

A No.

Q Was there anybody in front of the house, or don't you know?

A Why, I don't know.

Q Didn't pay any attention to them?

A No.

Q You don't know whether there was anybody in front, or how many?

A No.

Q You are excited somewhat?

A Yes, sir, a little bit.

Q You went down on account of the shots and you heard somebody groan?

A Yes.

Q And that person was near you?

A Yes.

Q You didn't pay any attention to anything else?

A No, I wasn't - -

MR. DARROW: That is all.

MR. TOMS: Just one question, Mrs. Henley.

REDIRECT EXAMINATION

BY MR. TOMS:

Q What was it that called you to go downstairs?

A Why, the shots.

Q That is the thing that you went -- that is the thing that brought you downstairs?

A Yes. I hadn't thought of going down.

Q Were you out on your porch the night before?

A Why, yes, we went down after supper.

Q That is, Tuesday night, the night before the shooting?

A Yes.

Q Did you observe anything unusual in the neighborhood that night?

A No.

MR. DARROW: Now, I object to that question.

MR. TOMS: All right.

THE COURT: The objection is sustained.

Q What did you see the night before?

MR. DARROW: Of course, this isn't redirect. Wait, just a minute. I object, as redirect. If he asked about something of this witness, I presume the court has got a right to grant it, but it would be merely accumulative.

THE COURT: The objection is overruled.

MR. DARROW: It isn't redirect anyway.

MR. TOMS: Well, perhaps not.

MR. DARROW: I don't believe it is anyway. I don't think so.

Q Describe what you saw the night before?

MR. DARROW: Did your Honor pass on that?

THE COURT: You may have an answer.

Q All right, Mrs. Henley.

MR. DARROW: Go ahead.

A Why, I saw people walking up and down the street, and the people that lived downstairs, we were on the porch.

Q See any crowds congregated?

A No.

MR. DARROW: I object to that. I think counsel hardly ought to ask misleading questions as that.

MR. TOMS: I simply called her attention to the particular features.

THE COURT: In this case, the leading questions ought to be avoided, by everybody, avoid leading questions because of the nature of the trial, and the crime charged.

MR. TOMS: My first question was so broad "What did you see" that it hardly directed her to any particular thing.

THE COURT: Be careful about it.

MR. TOMS: Very well. I will try to do that.

Q Did you see police officers the night before?

A Yes.

Q Where were they?

A They were on the street.

Q Which side of the street?

A On the west side.

Q See any on the east side?

A No, I didn't.

Q The night of the 9th, was it a warm or a cool evening?

A It was warm.

Q That is all, Mrs. Henley.

RECROSS EXAMINATION

BY MR. DARROW:

Q Wait, just a minute, Mrs. Henley, please, Mrs. Henley.

A Yes, sir.

Q How long were you sitting on the porch on the night of the 8th?

A Oh, I don't remember. We went down there because it was so warm.

Q The 8th, you understand - -

A Yes.

Q - - is the day before. I want you to understand it. You don't remember how long you were there?

A No. Yes.

Q Did you go down for any other purpose except it was warm?

A No, no.

Q Well, had you any idea how long you were there?

A Why, no, I suppose about an hour, or an hour and a half.

Q You knew -- you had heard about the Sweets moving into that house, hadn't you?

A Yes, sir.

Q It was common gossip in the neighborhood, wasn't it?

A Well, I talked - -

Q What?

A Yes, I heard it talked about.

Q Talked about before they came, didn't you, that they were coming?

A Yes, we heard they were coming.

Q Yes. Well, now, was there anybody else on the porch but
* you and your husband, and Mr. and Mrs. Dove and the baby,
on the night of the 8th?

A No.

Q Do you know whether anybody was in front at that time, in
front of the house?

A No, I don't remember.

Q Don't remember?

A No.

Q You didn't pay any attention to anything, especially, went
down there to get some air, I suppose?

A Yes, sir.

Q Do you know whether anybody was on the vacant lot adjoining
the house?

A Why, I don't remember that. I didn't notice.

Q You didn't look?

A No.

Q Or anybody north of you?

A North? People were on their porches.

Q Well, what other porch was there any other people on?

A Why, all up and down the - -

Q What? -

A All up and down the street.

Q Was everybody out on their porch?

A I don't know whether everybody was, or not.

Q Who else, do you know?

A Why, the people on the - - in the next house.

Q Who are they?

- A I don't know their name, upstairs.
- Q How many were there there on the porch?
- A Why, I don't know. I didn't pay any attention.
- Q You don't know much about that part? Wasn't looking, were you?
- A No, I wasn't looking who was there.
- Q Well, now, if you will just excuse me, but if you will tell what you do know, it will be a lot easier. Do you know whether anybody was in front of the next house, do you know?
- A No, there wasn't .
- Q Nobody in front?
- A Not in front, no.
- Q What?
- A No.
- Q You don't know whether anybody was in front of this house, or not?
- A No.
- Q Might have been or might not have been, is that right?
- A Well, might have been passing - -
- Q I didn't ask you about passing. Was anybody standing out in front?
- A No.
- Q You are positive about that?
- A Yes, I am positive.
- Q. Was anybody standing on the lot, along the line of the grocery store?
- A I don't know.

- Q Did you look up the street, or down the street towards Garland - - towards Charlevoix?
- A No, I didn't look that way.
- Q You don't know who was down that way?
- A No.
- Q Did you look north up the street? See anybody?
- A I was facing that way.
- Q What?
- A I was facing the north, but I didn't notice anybody.
- Q You mean, you were faced, turned north?
- A Yes, I was at the end of the porch. My face was toward the north.
- Q Weren't you facing the west?
- A No.
- Q You couldn't look anyway but north?
- A No.
- Q You don't know whether anybody was up that way, or not?
- A No, it was kind of dark.
- Q Did you notice any automobiles parked around there, do you know?
- A I knew there were some, yes.
- Q Whereabouts?
- A All along the street.
- Q Any in front of your house?
- A No.
- Q Sure about that?
- A Sure.
- Q Sure?

A Yes, I am sure.

Q Do you remember any particular automobile?

A Why, the groceryman's car.

Q That was around the grocery store, wasn't it?

A It was on Garland.

Q What?

A It was on Garland.

Q Do you know ~~what~~ that the groceryman's automobile was parked on the evening of the 8th?

A Yes, sir.

Q Did you see it?

A Yes, sir.

Q And you knew his machine, do you?

A Yes, sir.

Q And it was parked down at the street, around there?

A Yes.

Q Do you know whether there was any other parked there?

A No, I do not.

Q You didn't know. And you did see a number of policemen?

A Yes, sir.

Q Do you know where they were?

A Why, all along the street. On the west side of the street.

Q What other people there were around there, you don't know?

A No, I do not know.

Q Did you look over to the schoolhouse?

A No.

Q Don't know how many were on that corner?

A No, sir.

Q That is all.

MR. TOMS: That is all.

(Witness excused.)

- - - -

F R E D A. B E N O I T, called as a witness
in behalf of the People, and being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Where do you live, Mr. Benoit?

A 3422 Garland Avenue.

Q Between what streets is that?

A Goethe and Maack.

MR. DARROW: Will you excuse me for a minute?

(Interruption.)

Q Were you home on the night of the 9th of September?

A Yes, sir.

Q After dinner, that is, after your evening meal, where were
you?

A Sitting on the front porch.

Q And your front porch?

A Yes.

Q Did you stay there?

A Stayed there until about eight o'clock, quarter of eight.

Q Then what did you do?

A Walked down to the schoolhouse, below Charlevoix - -

Q That is the Howe School on the southeast corner of Garland and Charlevoix?

A Yes, sir.

Q While you were there, did anything happen?

A I heard some shots.

Q Now, where were you standing when you heard these shots?

A Why, in front of the school, at the lower end of the school.

Q On Garland or Charlevoix?

A Garland.

Q How far is that from the corner?

A Well, about 75 feet, I should say.

Q About 75 feet south of the corner?

A Yes.

Q Was anyone with you, that is, directly accompanying you?

A I was talking to two other men there.

Q And in the - - did you see anything?

A Well, yes, I saw some flashes.

Q Flashes from where did they come?

A Side of the house.

Q Which house?

A The corner house there, on the corner of Charlevoix and Garland.

Q Northwest corner, you mean, Sweet house?

A West side.

Q You saw flashes coming from that house?

A Yes.

Q From what part of it?

A The upper window.

Q On which side?

A Charlevoix side.

Q Charlevoix side. That would be the south side?

A Yes.

Q How many shots did you hear, or see?

A Well, I heard - - I should say eight or ten shots but I only saw two flashes.

Q You saw two flashes?

A Yes.

Q Were they separated by an interval?

A A second or so, a couple of seconds.

MR. DARROW: Just read that last answer.

(The answer was repeated by the reporter.)

Q You saw flashes coming from two different places?

A No, I only saw flash from one place.

Q From one place. And there were two distinct flashes separated by a second or two?

A Yes.

Q Now, you had walked the full length of a block between Charlevoix and Goethe, hadn't you?

A Yes.

Q And part of the block above Goethe. What did you do after you heard the shots fired?

A Well, I walked farther down Garland.

Q Away from the shots?

A Away from the shots.

MR. DARROW: You mean, south?

A South.

Q Then what did you do?

A I stayed there a few minutes. I should say about ten, and then I walked back up.

Q Back up to the house?

A Back up to the school, and stopped for a minute, and then I walked - - I was going back home

Q Was there anyone who walked down from your house with you?

A Yes.

Q Who?

A Man that rooms at my house.

Q What is his name, please?

A Strong.

Q Strong?

A Yes.

MR. DARROW: You say the man that owns it?

A He rooms at my house.

Q That is the only man that walked down Garland with you?

A Yes.

Q Now, as you came down Garland Avenue, what were the conditions, what did you see?

A Well, I saw people standing around talking on the lawn for - - possibly some on the street, sidewalk.

Q Did you see any police officers?

A Yes, sir.

Q Did you see the officers speak to anyone?

A They were keeping people moving.

MR. DARROW: What is the answer?

(The answer was repeated by the reporter.)

Q Well, were the people moving?

A Yes, those that were on the sidewalk that I saw.

Q Did you see anyone who was armed?

A No, sir.

Q Anyone carrying clubs or stones?

A No, sir.

Q Was there any disorder in the way of shouting?

A No, sir.

Q Did you see people on the west side of Garland Avenue in front of the Sweet house?

A No.

Q Did you see any officers over there?

A I believe there was one on the corner.

Q Just before the shooting, did you see any large group or crowd of people anywhere?

MR. HAYES: Objected to, right from the testimony of this witness, , he was first asked what he saw, and after he stated what he saw, there have been seven or eight leading questions. That was after your Honor's admonition. We didn't object to it, but I think that should be objected to, and I think the rest that come up too as leading questions. The witness should tell what he saw first, and we object to this question.

MR. TOMS: A leading question is one which suggests the answer. I asked him whether or not he saw a certain thing. It does not suggest the answer. It is not a leading question. The first question, what did you see, is so general. A person out on the street, walking two blocks,

must see hundreds of things, many of which are unimportant and immaterial, and it is not wrong for me to ask him whether or not he saw certain particular things.

THE COURT: You may answer the question yes or no.

MR. TOMS: Will you read in the question, Mr.

Gellein?

(The question was repeated by the reporter.)

A No.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q What is your business?

A Foreman, Packard Motor Car Company.

Q Foreman for Packard Motor Car Company?

A For the Packard Motor Car Company.

Q How long have you worked at that?

A Eight years.

Q Own your own home there?

A No, sir.

Q How long have you lived there?

A Seven years, I believe.

Q In that place?

A Yes.

Q And what does your family consist of?

A Wife, mother-in-law, lives there with us.

Q Perhaps he means his mother-in-law and wife. That is one of my puns. Your wife and mother-in-law live there with you?

A Yes, sir.

Q Have no children?

A No, sir.

Q Is this a house or apartment?

A It is a house.

Q What time did you get your supper that night?

A Unusual time, about five -- quarter past five.

Q What time did you get through with supper, do you know?

I suppose you don't know exactly?

A Don't know exactly?

Q What did you do after supper?

A Went out on the front porch.

Q Anybody with you?

A Well, I don't know, I guess my wife was there for a while.

Q You don't know for sure?

A I wouldn't say for sure.

Q Anybody else?

MR. DARROW: A little louder.

A No.

MR. TOMS: Mr. Benoit, keep your voice up. I can't quite hear you.

Q So that this last man over here can hear you. Don't remember anybody else being with you?

A No, I don't.

Q You knew that the Sweets had moved in on that corner, didn't you?

A I had heard it, yes.

Q You heard the matter talked of for some time around the

neighborhood, about their coming, hadn't you?

A Yes.

Q You were interested, I suppose?

A Yes, I was.

Q You had talked about it yourself?

A Yes.

Q You went out, you say, you stood there on your front porch a while?

A Yes.

Q Do you know how long?

A Well, an hour, or an hour and a half, two hours, maybe. I had a little nap.

Q Out on the porch?

A Yes, sir.

Q Don't remember how long you were sleeping, I presume?

A No - -

Q ~~Approx~~ About what time you went to sleep?

A No, sir.

Q Were you up the night before late?

A Sir?

Q Were you up late the night before?

A No.

Q I wasn't going to ask you where. I was interested in the nap, that is all. You had a swing or bench out there?

A Yes.

Q And you don't know now about how long you slept?

A Well, I woke up about 7:30.

Q Any special reason why you knew it was 7:30?

A No, I just - - I think it was that time.

Q When you woke up, what did you do?

A Well, I walked up on the street.

Q See anybody around there then?

A There was a man that lives across the street.

MR. TOMS: I can't hear you, Mr. Benoit.

A There was a man living across the street, from me, and another neighbor, were there talking.

Q Whereabouts?

A Well, almost in front of my house.

Q Did you go over and talk with them?

A I walked down, and talked with them.

Q What about?

A About the Sweets moving in; there was a policeman on the corner directing traffic.

Q That is, he was keeping the traffic away from the street?

A He was directing automobile traffic on to Goethe off of Garland.

Q Had already cut off the traffic from Garland, automobile traffic?

A Yes.

Q You don't know when they shut it off, do you?

A No, sir.

Q This was about half past seven?

A Yes.

Q And you live north of Goethe, or Goethe, whatever you call it?

A Yes, sir.

Q About how many doors north?

A Five.

Q On which side of Garland?

A East side.

Q And this man and his neighbor were talking there and you joined them?

A Yes.

Q You were talking about the Sweet matter?

A Yes, - -

Q What?

A About the Sweet matter, and directing traffic off.

Q Well, that was all in connection with the Sweet matter, wasn't it?

A Yes.

Q That was why the traffic was directed off, wasn't it?

A Yes.

Q Did you discuss anything else there?

A No, sir.

Q Then what did you do?

A I went back on my porch.

Q How long did you stay there?

A Oh, I imagine about five minutes I should say.

Q Then what?

A This Mr. Strong that rooms there, came up to the house, and we suggested we walk down to the corner.

Q For what?

A Curiosity.

Q Curiosity about what?

A Oh, to see what was going on.

Q You mean, in connection with Sweet?

A Yes.

Q Haven't any hesitancy in telling me about it, have you?
You went down there to see what was going around the Sweet house?

A Yes.

Q You knew that traffic had been blocked off north as far as automobiles are concerned?

A Yes.

Q You knew there was a good many people along the sidewalks, some in the street, going up and down?

A Yes.

Q You knew it had been discussed for days in the neighborhood, didn't you?

A Yes.

Q As you went up, do you know how many people you saw that -- whose names you knew?

A Oh, I don't know, possibly one or two neighbors that lived near me.

Q Did you see any whose names you didn't know?

A Yes.

Q Did you make any -- did you try to find out who they were?

A No.

Q See any automobiles parked along the street?

A Yes.

Q Do you know how many?

A No.

Q Parked all along the street, weren't they?

A Yes.

MR. TOMS: Wait a minute. What do you mean by "all along the street"?

Q On the east side of Garland from where you were down to the corner?

A Yes, there were some.

Q Some places they were packed two deep, weren't they?

A I don't remember.

Q Don't remember. Anybody sitting in those automobiles, or were they empty?

A I don't know. I don't remember.

Q You couldn't tell that? Do you know whether there were any automobiles - - strike that out. I will come to that later. You saw knots of people gathered together at various places as you went up the street, or down the street?

A Yes.

Q And you saw policemen separating them and telling them to move on, didn't you?

A Well, yes, on the corner they were keeping everybody moving.

Q Weren't they all along there? Do you know how many policemen there were there?

A No, sir.

Q Well, however you did see them. They were telling them to move on, keep them moving?

A Yes.

Q Did any of them tell you to move on?

A I didn't stop.

Q Do you remember the grocery store down at the corner of Gar-

land and Charlevoix?

A Yes, sir.

Q There is a vacant place along there, isn't there?

A Yes.

Q People were standing there, were they not?

A I don't remember.

Q Don't remember. Do you remember the house just north of it, or don't you remember?

A Flat?

Q Flat?

A Yes,

Q People there, or don't you remember?

A Well, I don't remember. I didn't stop there.

Q You don't remember where the people were particularly?

A Yes.

Q Excepting they were all around?

A Different places, yes.

Q Did you hear them say anything?

A No, I didn't stop.

Q Didn't you ^{hear} say a word?

A I didn't stop.

Q Well, couldn't you hear anybody speak as you passed them by?

A Oh, they were talking.

Q What about?

A I don't know.

Q Hear the word "nigger" used?

A I didn't hear them.

Q Did you hear them say anything about -- Dr. Sweet's name

used?

A No, sir.

Q Can you mention one word you heard as you went amongst those people?

A No, I can't.

Q Can't recall a word?

A No, sir.

Q Were you talking about anything as you went up and down the street?

A Well, we were talking. I don't remember it.

Q Any conversation between you and the man who went with you?

A We were talking about different things.

Q Do you remember what you were talking about?

A No, sir.

Q Don't remember any subject that you were talking about?

A Not definitely, no.

Q Were you talking about the Sweet matter?

A Some part of the conversation was.

Q That is the only part of the conversation you remember, isn't it?

A Well, we were talking about policemen being stationed in there too.

Q Do you remember any other subjects of conversation?

A No, sir.

Q You knew why the policemen were there, didn't you?

A Yes.

Q You knew they were there as protection to that house, and people in it?

A That is what we thought, yes.

Q You didn't take -- strike that out. You got right down to the schoolhouse, did you?

A Yes, sir.

Q Stopped there?

A Yes.

Q Any special reason for stopping there?

A Just -- no special reason. Stopped there and talked.

Q Whereabouts there did you stop?

A Well, about 75 or 100 feet from the corner, possibly a little farther down.

Q Well, now, let's see, be sure where you were. Look at this map just a second. This is the schoolhouse. Schoolhouse lot (indicating). Here is the Sweet place, diagonally across; Mr. Toms, you said I didn't get this curb right, which probably I didn't -- is this meant to be sidewalk (indicating)?

MR. TOMS: No. That is the sidewalk, and this is the curb line.

MR. DARROW: And the street from there.

MR. TOMS: That is the curb, to curb.

MR. DARROW: And the sidewalk along here (indicating).

MR. TOMS: Sidewalk along here.

MR. DARROW: Part of it. All right, thank you very much.

Q Now, do you understand that? Here is the street, this is the curb line and part of that is sidewalk. Where did you stop there?

A Well, down O- - -

Q Here is my pencil. Come down and point it out, please.
~~You think~~ you have it clear in your head, haven't you?

A Yes, sir (indicating), right about here.

Q Oh - -

MR. TOMS: I didn't see it.

Q I got it on the corner.

A No.

MR. FRIEDMAN: Let the record show that. Mr. Darrow, the record doesn't show where he pointed out.

MR. DARROW: He said about there, didn't he?

MR. FRIEDMAN: The record doesn't show that.

MR. DARROW: Well, you stopped about - -

MR. TOMS: Now, you have got him out on the street.

MR. DARROW: On the sidewalk?

A On the sidewalk, yes.

Q About there?

A Just a little below there.

Q About there?

A About there, yes.

Q Marked with cross. About halfway down the block, isn't it?

MR. TOMS: Oh, no. It is only about 75 feet.

Q Well, about 75 feet south of Charlevoix on the east side of the street. Any special reason why you stopped?

A No. No special reason, stopped there - -

Q That close you come then to the Sweet property?

A Yes.

Q At the corner around there?

A Yes.

Q And you were looking at it, weren't you?

A Yes.

Q That is why you came down?

A Yes.

Q Well, who was with you down at the point where you say you stopped, if anybody?

A Same man, Mr. Strong.

Q Did you say some other man joined you there?

A There was another man joined me there.

Q Who was that?

A I don't remember.

Q Did you ever see him before?

A Yes, I think it was one of my neighbors.

Q And you have forgotten his name?

A I couldn't say which one it was.

Q Now, you knew ^{him}/very well then?

A I knew he is a neighbor.

Q You didn't know him very well, did you?

A No, not personally, no.

Q And you cannot tell me what his name was?

A I don't remember which one he was.

Q Where does he live? Where did he live?

A He lived either the second or the first - - or the second door below me.

Q You mean, south?

A Yes.

Q What was he doing there?

A I don't know.

Q You haven't any idea? You three men talked together?

A Yes, sir.

Q What were you talking about, this Sweet matter?

A Sweet matter, yes.

Q And how long did you stay there?

A Well, about ten minutes.

Q There were people on the schoolgrounds, weren't there?

A I believe there were.

Q And in front of the schoolgrounds?

MR. TOMS: What do you mean? Let us fix that location.

Q There were people over here on the schoolgrounds, were there not?

MR. TOMS: That is inside of the fence?

MR. DARROW: Inside.

A I don't know.

Q You don't know.

A Inside of the fence, no, sir.

Q People outside?

A There were two or three small groups there.

Q Two or three small groups? Where were they?

A On the sidewalk.

Q How small were these groups, do you know?

A Why, two or three people.

Q Weren't there 50 people standing around that schoolhouse at that time, on that schoolhouse lot?

- A I don't know.
- Q You don't know. Were there any automobiles parked there?
- A Yes.
- Q Whereabouts?
- A Right in the street.
- Q How many?
- A I don't know.
- Q Were they vacant or occupied?
- A As far as I know, vacant.
- Q Did you see anybody drive a machine, any machines up there while you were there?
- A No, I didn't.
- Q Do you know anything about who owned these machines?
- A No.
- Q Nor how long they had been there, or when they came or when they went away?
- A No.
- Q You didn't try to find out either, did you?
- A No.
- Q Were there any people across the street from you?
- A I don't remember.
- Q Did you see a man and some boys -- several men and some boys on the other side of the street walking up and down?
- A I don't remember.
- Q There might have been and there might not have been, is that it?
- A Yes.
- Q You don't remember very much about who was there or how

many, do you?

MR. TOMS: Just a minute. That calls for a conclusion. It is an opinion.²

MR. DARROW: Well, I withdraw it.

Q You saw the policemen keeping the people back, and keeping them moving?

A Yes.

Q Did any of the policemen address you?

A No, sir.

Q How many policemen were doing this?

A I don't know. I saw three or four of them, as I can remember.

Q It might have been ten or fifteen for all you know?

A Yes.

Q Was there a crossing policeman there, or don't you know?

A You mean traffic?

Q Traffic?

A I don't know. I don't think there was. There might have been.

Q Were there any policemen standing on that corner? I speak now of Charlevoix and Garland?

A Yes.

Q How many?

A Possibly one or two.

Q Did you see them doing anything?

A Keeping people moving.

Q Yes. And was anybody on the west side of Garland, north of Charlevoix, around the Sweet property?

A No, I didn't see anybody over there.

Q Any policemen?

A Yes, there was one on the corner.

Q Did you see him doing anything?

A Well, I don't remember. He was standing there.

Q They weren't permitting anybody to go over there, were they?

A No.

Q Now, do you know whether anybody was on the north side - - south side of Charlevoix. I said north (right in here (indicating), on the north side of Charlevoix, and west side of Garland?

A I couldn't see.

Q You couldn't see?

A No.

Q You could have seen when you were walking down, couldn't you?

A Yes.

Q But you didn't?

A I don't remember.

Q Were there cars parked on Charlevoix, east of Garland - - on the north side of Charlevoix?

A I don't remember.

Q How long had you stood there when you heard the shots?

A I should say about ten minutes.

Q Did you hear the sound of any stones on the Sweet house?

A No, sir.

Q Did you hear any glass broken?

A No, sir.

Q You couldn't tell anything about how many people you saw out there, could you, on those corners?

A Well, I imagine I could.

Q Well, could you tell - -

A No.

Q You haven't any idea, is that right?

A Well, there were people there. I could, a rough estimate.

Q Well, have you any means of estimating it so that you are sure in any way sure that you are right?

A No.

Q No. Do you know whether there were people north of your home when you came down?

A I don't know.

Q Didn't look that way?

A I don't remember.

Q Now, did you say after - - you don't remember about that?

A By looking north.

Q Do you say after you came down - - after you stayed there for some time, you then went still further south?

A After the shots were fired.

Q How far south did you go?

A Half way down the block.

Q For what? What made you do that?

A Get out of the way.

Q That was your sole purpose?

A Yes.

Q People go down that way too?

A Yes.

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- Q Then you went back, afterward?
- A Yes.
- Q Go straight back home?
- A No.
- Q Where did you go?
- A I came back up -- stopped for possibly two or three minutes.
- Q You mean by -- you mean, at the corner?
- A Just about where I was standing before.
- Q Yes. And then what did you do?
- A Then there was another volley. There were more shots fired.
- Q Now, let me see if I understand you. When you were standing there first, you heard some shots, didn't you?
- A Yes.
- Q You haven't any idea how many, or have you?
- A No, I couldn't say, the exact number.
- Q You saw some fire too, did you?
- A Yes.
- Q Which you assume was some guns?
- A Yes.
- Q And from what windows, off from the windows?
- A The Charlevoix side.
- Q Yes?
- A Upper windows.
- Q And that is the only place you saw any fire?
- A Yes.
- Q And you are not at all sure how many shots you heard?
- A No.

Q Then you went a little ways down?

A Yes.

Q And came back?

A Yes.

Q How long do you suppose that took you?

A Oh, I should say five or ten minutes.

Q And when you came back, you heard some more shots?

A Yes.

Q Well, you were somewhat excited probably - -

A Possibly.

Q -- more so than you are right now?

A Possibly.

Q And you wouldn't be sure that it took five or ten minutes before you heard some more shots, would you?

A I think that was about it.

Q All right. How many did you hear then?

A Well, I do_n't know. It must have been - - it sounded like - -

Q What?

A It sounded like a dozen.

Q Fewer or more than you heard the first time?

A I should say about the same.

Q And then what did you do?

A I stayed there for possibly five minutes.

Q Talked with anybody?

A It might have been longer.

Q Talk with anybody?

A Yes, there was - - I talked with somebody; I don't know who;

Q Plenty of people talking there then, weren't there?

A Well, they were pretty well scattered.

Q And then you went right home?

A No.

Q Where did you go next?

A I went up Garland.

Q Well, now, up, that means north, in front of that flat?

A North.

Q North. Stop again?

A Yes.

Q Where this man was hit?

A Yes.

Q Stay there long?

A Yes.

Q How long?

A Fifteen, twenty minutes.

Q Then you went home?

A Yes.

Q Any particular reason why you went down past the schoolhouse instead of stopping in front of the store or closer to the Sweethouse, when you first went down?

A We saw a policeman keeping the people moving, and we didn't stop.

Q Oh, you didn't stop, so you went to a place where you could stop, is that it?

A Yes.

Q Any other reason?

A Not that I know of.

- Q You stopped as soon as you found a place, did you?
- A Yes, sir.
- Q Now, did you ever hear of the Waterworks Improvement Association?
- A Yes.
- Q You have heard of it?
- A Yes.
- Q How long had you heard of it?
- A Oh, ix since summer.
- Q What?
- A Since this last summer.
- Q Ever a Member of it?
- A No, sir.
- Q Ever attend meetings of it?
- A No, sir.
- Q That is all. Were you at home the night before, or don't you know, the 8th?
- A I think I was.
- Q Were you out on the street the night before?
- A No, sir.
- Q That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

- Q Did you know Briener, Leon Briener, the man who was shot?
- A No, I didn't.
- Q Did you see him after he was shot that night?
- A No, sir.
- Q You didn't come close enough - -

A No.

Q -- to him to actually see him?

A No.

Q Did you see any -- withdraw it, put it in this form.

Mr. Darrow asked you whether you saw any cars parked double
of your way down Garland Avenue, did you?

A No.

Q You don't know whether these cars that were parked along
there belonged to people that lived in the houses, or not?

A No, I don't.

Q You have been up and down that street many times in the
evening, during the summer?

A Yes, yes.

Q Was there an unusual number of automobiles on the street
this night?

MR. DARROW: Just a minute.

A No, sir.

MR. DARROW: I object. It calls for comparisons.

THE COURT: The objection is sustained.

Q Can you estimate, Mr. Benoit, the number of people that
you saw in the vicinity of that corner just before the
shooting?

MR. HAYES: ^{to, on} Objected ~~was~~ cross examination the
witness was asked that very question. He said that he
could not even guess. He could not estimate.

MR. TOMS: No, he did not.

MR. HAYES: After Mr. Darrow asked him --

MR. DARROW: He said no reliable estimate. I asked

him before. if he could make any estimate that he could consider reliable, and he said no.

THE COURT: Well, Mr. Toms has the right to put this inquiry.

MR. DARRON: Very well. Well, he must be asked if he can do it.

MR. TOMS: I ask him the question now.

Q Can you?

THE COURT: You may have an answer. You may further cross examine on that.

A I should estimate about seventy-five people, all around.

Q Around that corner?

A Up and down the street there, yes.

Q That is, how big an area do you include?

A Oh, I should say area of 200 feet - - 200 or 300 feet, up and down.

Q From which place? From what side?

A From the school.

Q From the school?

A Around the school and up Garland, north.

Q And as far as what?

A Oh, about 200 feet up Garland - - 200 or 300 feet up Garland.

Q That is?

A North.

Q From the place you were standing, about 200 or 300 feet - -

A Yes.

MR. DARRON: No, he said 200 or 300 feet up and

down.

MR. TOMS: He said from the school, did you?

A From the school.

Q To a point 200 or 300 feet up Garland Avenue?

A Yes.

Q From where?

A From where I was standing.

Q From here (indicating)?

A Yes.

Q In that distance you would estimate about seventy-five people?

A Yes.

Q Now, do you mean -- let me get this straight. You say 200 feet? Do you mean 200 feet north of the car track?

A North of Charlevoix.

MR. DARROW: I think he said where he was standing.

Q We have got a right to have him explain what he meant.

MR. DARROW: If he wants to change it, yes.

A First I did say 200 or 300 feet up and down Garland. It means from where I was standing.

Q Now, you are 200 or 300 feet. It would mean from where you were standing, south and north?

A No.

Q 200 or 300 feet north of where you were standing?

A Yes.

Q You were about seventy-five feet from the corner?

A Yes.

Q And this -- map shows Charlevoix, 34 feet wide, 34 feet wide.

MR. DARROW: Yes, that is all right.

Q And the lots north of Garland, north of Charlevoix on Garland would be thirty feet each. That is all.

RECROSS EXAMINATION

BY MR. DARROW:

Q Just one minute. You answered my question that you didn't think that you could make a reliable estimate, didn't you?

A I started to say a rough estimate.

Q Wait a minute. I asked you whether you could make a reliable estimate, you said that you couldn't. Didn't you?

A Yes.

Q Do you think you can now?

A Rough estimate.

Q I said reliable.

A Well - -

MR. TOMS: Now, that is - -

Q Rough, that you are making now, is it?

A Rough estimate.

Q All right. Now, you say seventy-five people within 200 or 300 feet, north of where you stood on Garland, is that right?

A Yes.

Q You don't know whether there were more or less, do you, than seventy-five people?

A No.

Q What?

A It might have been more, and it might have been less.

Q Those were on the east side of Garland, were they not?

A Yes.

Q And those are the people that you have been speaking of on the east side of the street?

A Yes.

Q You said there might have been fifty people on the school grounds also, didn't you?

MR. TOMS: No.

A No.

Q How many?

A None.

Q You said there were none on the schoolgrounds?

A I don't remember seeing anybody there.

Q In this estimate you haven't included anybody on the schoolgrounds, have you?

A No.

Q That is it. Now, you haven't included anybody on Charlevoix, have you?

A No.

Q Have you included anybody on any vacant lots?

A Well, no.

Q What?

A No.

Q And how long was this before the shooting, that you make this estimate?

A Why, while I was there -- while I was standing at that spot.

Q And that was all of it, after the traffic had been shut

off the street?

A Yes.

Q That is all.

MR. TOMS: That is all.

(Witness excused.)

G E O R G E S U P P U S, was thereupon called as a witness on behalf of the people herein and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOWNS:

Q Where do you live, George?

A 2996 Garland.

Q That is on the east side of the street?

A Yes, sir.

Q Up near Goethe?

A Between Goethe and Charlevoix.

Q Were you home on the night of the 9th of September of this year?

A Yes, sir.

Q Were you outdoors after dinner?

A Yes, sir.

Q Or supper?

A Yes, sir.

MR. DARRON: Say, George, this man has to write it down, and you have got to make all of these men over here hear you, so if you will speak a little louder, all right. You will get used to it, so don't be afraid now.

Those answers were yes, weren't they?

A Yes, sir.

Q Do you know where Mr. Dove lives?

A Yes, sir.

Q At 2913-2914 Garland?

A Yes, sir.

Q That is the first house back of the grocery store?

A Yes, sir.

Q Were you down at that house that night?

A Yes, sir, I was sitting on the first porch; I was sitting on the steps at the first house. I was sitting on Mr. Dove's steps.

Q That is the one nearest to Charlevoix, isn't it?

A Yes, sir.

Q Who was with you there on the steps?

A Ulrich Arthur was sitting with me.

Q Is he a boy friend of yours?

A Yes, sir.

Q How old is he?

A 13.

Q Any other boys there?

A Yes, he is coming in in a few minutes, I guess.

Q So, that is all right.

MR. BARRON: That is all right.

Q You did not quite understand me, George. Were there any other boys there except you and Ulrich?

A My little brother was with me.

Q How old is he?

A Ten.

MR. BARRON: That is his little brother?

Q Yes. What time did you go down to that house?

A Oh, it must have been about 7 o'clock.

Q Tell us what happened after you got down there?

A I saw so many policemen down there watching around that I was wondering what they were all doing down there, and then I heard that these people moved in there, so I stayed around there to see, to watch the policemen.

Q You mean that you went down there to see what the policemen were doing?

A Yes, sir.

Q And what they were there for?

A Yes, sir.

Q What did you see after you got down there?

A I did not see nothing until after awhile, about around 9 o'clock I think it was.

Q Whatever time it was, a little later, what did you see?

A I saw them shooting after awhile.

Q Where were you sitting when you saw the shots?

A On the first house there, on the steps.

Q On Mr. Dove's steps?

A Yes, sir.

Q Did you see some shots come from somewhere?

A Yes, sir.

Q From where?

A From the side of the house between the first and second house, upstairs.

Q The first and second house?

A Yes, sir.

Q Between the first and second house?

A Yes, sir.

Q That is, between Sweet's house and the one that is north of it?

A Yes, sir.

Q What did you see coming out of the windows?

A I saw the men shoot from the windows; I saw the shots.

Q Did you hear them too?

A Yes.

Q Did you see anybody struck?

A No, I never saw anyone struck.

Q How many shots do you think you heard, George?

A Oh, I could not say. I do not know just how many it was.

Q It was more than one?

A Yes, sir.

Q About how many as nearly as you can fix the number? What did it sound like?

A Well, all I heard was a few shots fired, and then they stopped, and then it started again.

Q Some more shots fired the second time?

A Yes, sir.

Q Do you know how long it was between the two shots, or the two series of shots?

A Oh, I don't know just exactly how long it was; about a minute -

MR. DARROW: This boy would not know.

Q No. He said about a minute. Then what did you do?

A I got up and ran in between the back of the stores on Charlevoix.

Q That is, in between the Dove house and the store?

- A Yes, sir.
- Q You went back?
- A Yes, sir.
- Q A very good idea; how long did you stay there?
- A Well, until I thought all the shots stopped.
- Q Then, what did you do?
- A I walked around back and I went home again.
- Q Around in back of the house?
- A No, I went around the front after it all stopped.
- Q Did you see the man that was shot?
- A No, sir.
- Q Then you went home?
- A Yes, sir.
- Q Now, George did you see some boys around there before the shooting?
- A Yes, sir, there was some young boys around there.
- MR. DARRON: Where do you mean?
- Q Around the Dove house or around the Sweet house?
- A Yes, sir, they were right across the street by Dove's house.
- Q They were where?
- A Right next to Dove's house.
- Q What did you see them do?
- A There was some young boys there tossing a few stones.
- Q Some young boys who were throwing stones?
- A Yes, sir.
- Q What were they throwing at?
- A They were throwing them across the street.

Q Toward the Sweet house?

A Yes, sir.

Q How many boys were there?

A Oh, about five or eight or so.

Q About five?

A Yes, sir.

Q How big were they? How old?

A Oh, between 12 and 13.

Q Did you know them?

A No, sir.

Q You did not know those boys?

A No, sir.

Q How many stones did they throw?

MR. DARROW: If he knows. I object to the question.

Q Yes.

MR. DARROW: He should be asked first whether he knows.

THE COURT: Yes, ask him first whether he knows.

Q Do you know how many stones they threw?

A No, sir.

Q What happened to those boys. Where did they go?

A They just stayed there until after awhile. I don't know where they went then.

Q Were they there at the time of the shooting?

A Yes, sir.

Q Did you see them afterwards?

A No, sir.

Q Do you know whether any of the stones hit the Sweet house?

A No, sir.

Q You cannot tell us how many stones were thrown?

A No, sir, about five I guess or five or six, as far as I know.

Q Did you see the stones?

A That they threw?

Q Yes.

A No, sir.

Q Where were the boys throwing from, where were they standing?

A Between Dove's house there and the next house.

MR. DARRON: Between Dove's and the next house?

A Yes, sir.

Q You mean the next house north or the grocery store?

A North.

Q What?

A North.

Q This is Dove's house (indicating). I don't know whether you can understand this. This is Charlevoix, and this is north.

It was between Dove's house and the next one north?

A Yes, sir.

Q The boys were standing in between those two?

A Yes, sir.

Q And throwing stones at the Sweet house?

A Yes, sir.

Q Were they there very long doing that?

MR. DARRON: If you know?

A No, they were not there so very long, just a couple of minutes.

Q Do you know how long before the shooting started that these

boys were throwing stones. Here is what I want to know, had they stopped when the shooting started, or were they still throwing stones?

A They stopped, it was about two minutes.

Q Before the shooting?

A Yes, sir.

Q That they had stopped?

A Yes, sir.

Q Did anyone chase them away if you know?

A I do not know.

MR. TOMS: Cross examine.

THE COURT: Take a recess at this time.

(Whereupon a recess was had)

CROSS EXAMINATION

BY MR. DARROW:

Q George, I suppose you go to school?

A Yes, sir.

Q How far along are you?

A What is that?

Q How far have you got in school?

A Seventh grade.

Q Do you go down to the corner of Garland and Charlevoix?

A No, sir.

Q Where is your school?

A It is on Fairview and Charlevoix.

Q How is that?

A Fairview and Charlevoix.

Q Who do you live with, at home?

A My father and mother.

Q You have not any brothers or sisters?

A Yes, sir.

Q Are you the oldest of the family?

A Yes, sir.

Q What is that?

A Yes, sir.

Q What is your father's business? What does he do?

A He is a tool maker.

Q You have lived there quite awhile, haven't you?

A Yes, sir.

Q Do you know how many years? Well, you don't need to figure it out?

A About five years I guess or six years.

Q About five years?

A Yes, sir.

Q You must know pretty nearly everybody in the neighborhood?

A Yes, sir.

Q Especially the boys?

A Most every one I know.

Q You probably know all the boys around there anyhow?

A Yes, sir.

Q Do you remember when you first heard that Dr. Sweet was going to come into the neighborhood?

A (no answer).

Q Do you remember about when it was?

A Oh, it was - I don't know just how long it was.

A JUROR: Speak up.

Q You don't mind talking loud enough for these people all to hear you, do you? You are not nervous about it at all, are you?

A A little bit.

Q Well, you will get over that, I guess. I will stand back and maybe you will not be as nervous if I stand way back here (indicating). Now, I have got to hear you, and if I do these men can hear you.

Do you know about when it was that you heard that these colored people were coming into the neighborhood?

A Oh, just about a month before they moved in.

Q You heard it from the people around there?

A I heard it from a few of the boys over there.

Q What was that answer?

A I heard it from a few of the boys.

Q They were all talking about it, weren't they?

A Yes, sir.

Q And I suppose you told other boys about it?

A Yes, sir.

Q It had been talked about a good deal up to this time, hadn't it?

A Yes, sir.

Q After that time, did you hear when they did move in?

A (No answer from the witness).

Q Did you hear the day they moved in?

A Yes, sir.

Q The day of the shooting was the 8th, wasn't it?

A Yes, sir.

Q And you heard that they moved in on the 8th, I suppose, the day before?

A Yes, sir.

Q Did you happen to be up that way that day, on the 8th?

A No, I did not happen to come along that way on the 8th. I was not at home at that time.

Q So you did not see them move in?

A No, sir.

Q But you heard that they had moved in?

A Yes, sir.

Q Did you go to school on the 9th?

A Yes, sir - no.

Q What?

A No, sir.

Q You did not go to school on the 9th; that was Tuesday?

MR. FRIEDMAN: Wednesday.

MR. TOMS: Yes, Wednesday.

Q It doesn't make any difference, Wednesday would be a school day, wouldn't it?

A I cannot remember.

Q You were going to school at the time?

A School just started at that time.

Q It started the Monday before, didn't it?

A Yes, sir.

MR. FRIEDMAN: No, that was Labor Day.

MR. DARROW: What is that?

MR. NELSON: Monday was Labor Day.

MR. DARROW: The Monday before that was Labor Day.

MR. TOMS: No, the 7th was Labor Day.

MR. DARROW: Uh, yes.

Q (By Mr. Darrow, continuing): Well, it doesn't make very much difference whether you make a mistake or not, George, but I want to see whether you do remember. Monday was Labor Day and Monday was the 7th; do you remember that?

A Yes, sir.

Q Now, do you know when school did begin?

A I think it was on the 9th, I am sure, yes.

Q How is that?

A I think it was on the 9th, but I am not positive of that.

Q All right. If you are wrong, we will not mind it. But, you think there was school on the 9th, don't you?

A Yes, sir.

Q What time did you go to school?

A I was supposed to be there about -

Q (Interrupting); 9 o'clock?

A Yes, sir.

Q And then they have a noon hour, an intermission at 12, do they?

A Yes, sir.

Q And you go back at one?

A Yes, sir.

Q That is the way it used to be when I was your age. Maybe it is changed now. That is the way it is now, is it?

A Yes, sir.

Q What time is school out?

A 3:10.

Q 3:10?

A Yes, sir.

Q You think you were probably at school on that day?

A Yes, sir.

Q Did you go right home from school?

A Yes, sir.

Q Did you stay around the house?

A Yes, sir.

Q Until time to get yur supper?

A Yes, sir.

Q Do you know what time you got yur supper?

A Yes, sir, about six o'clock.

Q Then after supper what did you do?

A I had to do a little work around the house and then I went out to play.

Q After you got through with your work, what did you do?

A I went out to play.

Q Where did you go to play?

A Oh, I went out to see a few of my boy friends.

Q Do you remember where?

A Oh, one of the boys lives a couple of doors from our house, and I went over to play in his back yard.

Q Which way?

A Towards Mack; that is north.

Q Towards what?

A Towards Mack.

Q What?

A That is north.

Q North?

A Yes, sir.

Q Then did you come back to the house?

A Yes, sir.

Q Do you know about what time it was that you got back to the house?

A Oh -

Q I know you cannot tell exactly, but maybe you can tell us pretty near the time.

A About 6:30 anyway, I imagine.

Q About 6:30?

A Yes, sir.

Q Then what did you do at that time?

A Oh, I went down to the corner of Garland and Mack - to the corner of Garland and Charlevoix.

Q Garland and what?

A And Charlevoix.

Q It was daylight then, wasn't it?

A No, sir.

Q 6:30?

A It was just starting to get dark.

Q Well, I do not suppose there will be much dispute about what time it gets dark here, will there. Anyway it started to get dark when you went down there?

A Yes, sir.

Q That is the only way you know about the time, isn't it?

A Yes, sir.

Q That it started to get dark?

A Yes, sir.

Q Did you talk with your father and mother before you went down to where you were going?

A Yes, sir.

Q Did anybody go down with you?

A No, sir.

Q Where were your father and mother when you left, George?

A My mother was in the house and my father was working.

Q He had not gotten home yet?

A My father works nights.

Q He works at nights?

A Yes, sir.

Q So he was not there?

A No, sir.

Q At all that evening?

A No, sir.

Q Did you say anybody went down with you?

A No, sir.

Q What did you go down for?

A I just went down to see what all of the policemen were doing down there.

Q You knew why the policemen were there, didn't you?

A I found out after awhile just what they were doing.

Q You knew the day before, didn't you, why the policemen were there?

A Yes, sir, but I did not know why they were guarding the place; there were so many of them down there, I saw them

standing around.

Q You knew that some colored people moved into it, didn't you?

A Yes, sir.

Q And you knew that the neighbors did not want them there?

A Yes, sir.

Q You know that is the reason, you knew that was the reason why the policemen were there, didn't you?

A Well, I did not know just exactly what they were all doing down there.

Q You thought that they were there on account of the colored people moving in, didn't you?

A Yes, sir.

Q So you went down, as any boy would do, to see what was going on?

A Yes, sir.

Q Did you stop on your road down?

A What is that?

Q Did you stop anywhere on your road down to the corner?

A No, sir.

Q You did not stop at the flat building?

A No sir.

Q The Dove building?

A No, sir.

Q You went right straight to the corner?

A Yes, sir.

Q How long did you stay around there?

A You mean before the shooting?

Q You went back, didn't you; you heard the shooting when you

got back to the Dove house, didn't you?

A I just ^{stood} ~~met~~ around the corner of Garland there, and I met
3 a boy friend and we walked over and sat on the steps awhile.

Q What is your boy friend's name?

A Ulric Arthur.

Q You walked over and sat on the steps whereabouts?

A On Dove's porch.

Q Well, Dove's house or flat is - the store is between that
and the corner, isn't it?

A I was sitting on the steps towards the south, at Dove's
place.

Q Well, that store or that vacant lot is in between that
and the corner of Charlevoix and Garland, isn't it?

A Yes, sir.

Q When you said you went down to the corner, you mean that you
went down as far as Dove's house, is that what you mean?

A I walked up to the corner in front of the store and waited
around there a little while, talking around there with my
brother and then I waited awhile and then another boy friend
of mine came over, and we sat on the steps awhile.

Q Was that the boy friend that you mentioned?

A Yes, sir.

Q When you were down there before; you were there with your
brother alone?

A Yes, sir.

Q How many policemen were around there?

A Oh, I imagine about ten, I guess, nine or ten.

Q What were they doing?

A They were guarding Sweet's home.

Q Were they saying anything to the people around there?

A No, sir.

Q Telling them to move on?

A Well, the people moved, whenever the policemen told them to, they did whatever the policemen told them to.

Q I mean this, that the policemen were there, and when people would stop, they would tell them to move on?

A Yes, sir.

Q Did any of them speak to you?

A No, sir.

Q But you saw them speaking to other people about it, didn't you?

A Yes, sir.

Q When a number of people would get together, they would tell them to move on?

A Yes, sir.

Q And that was so when you first went down?

A Yes, sir.

Q Did you see any automobiles along the street when you went down parked there, or don't you remember?

A There was one Ford that belonged to the grocery man. He had his Ford standing in front.

Q Do you know whether there were any parked further north?

A I did not pay any attention.

Q What?

A I did not pay any attention to it.

Q You did not pay any attention to whether there were any

parked or not?

A No.

Q On the north side of Charlevoix?

A No, sir.

Q You didn't pay any attention to automobiles at all?

A Well, I just noticed the one there that belonged to the man in the grocery store.

Q And the reason that you noticed that was because it was generally parked there, wasn't it?

A Yes, sir.

Q That is how you happened to notice that?

A Yes, sir.

Q So far as the others were concerned, you cannot say one way or the other?

A No, sir.

Q You paid no attention and did not notice it?

A No, sir.

Q You did not stay at the corner very long?

A No, sir.

Q Then you went back to Dove's, and this boy went back with you?

A Yes, sir.

Q Whereabouts did he sit, or where did you sit?

A I sat on the steps of the flat, where Dove lives, on the south side of the steps?

Q There was you and your boy's friend, and Mr. and Mrs. Dove?

A Yes, sir.

Q And they had their baby?

A Yes, sir.

Q Or child?

A Yes, sir.

Q Was your brother with you?

A Yes, sir.

Q Anybody else there?

A Not that I paid any attention to.

Q Do you know whether the people upstairs were there?

A Yes, sir.

Q They were sitting there?

A Yes, sir.

Q All of them were there when you got there?

A Yes, sir.

Q All of them were there when the shooting went on?

A Yes, sir.

Q Do you know anything about who there was in front of the house, if anybody?

A No, I don't know.

Q You didn't pay any attention to that?

A No, sir.

Q You don't know anything about who was on the vacant lot alongside of the store?

A There was nobody there at all; it was all clear.

Q There was nobody on that vacant lot?

A There were no people there that I know of.

Q What is that?

A There were no people there that I know of.

Q Did you notice whether there was or just - -

A The policeman was chasing them away all the time, the policemen would tell them to keep off, and they would move on.

Q At that vacant lot?

A What was that?

Q On that vacant lot?

A Yes, sir.

Q They were chasing them away all around the street there, so far as you saw, weren't they?

A Yes, sir.

Q There were eight or ten policemen doing it?

A Yes, sir.

Q You didn't go to the school yard, did you?

A No, sir.

Q You didn't pay any attention to who was there?

A No, sir.

Q Do you know whether there were any automobiles parked around the school yard, or didn't you look?

A I did not look.

Q You know that flat building across from the Sweet place on Charlevoix, do you?

A Yes, sir.

Q Did you see anybody out in front there, on Garland?

A I did not pay any attention to it.

Q You did not pay any attention to it?

A No, sir.

Q Do you know whether anybody was sitting on the front of the flat building on Charlevoix. There are steps there,

aren't there?

A Yes, sir.

Q Or didn't you pay any attention to that?

A I did not pay any attention to it.

Q Well, how long had you been back before the shooting began?

MR. TOMS: I did not get that question.

Q How long had you been back - I mean back to Dove's place?

A Oh, I was sitting there until about - - what do you mean, just before the shooting?

Q Yes. I know that you cannot tell exactly, because you were not looking at a watch or a clock, I suppose?

A No. I don't know just how long it was.

Q Ten or fifteen minutes before that?

A No, it was more than that, I think.

Q 30 minutes?

A It was around an hour, I think, an hour or two. I didn't pay no attention to it.

Q Well, it was getting dark when you went down to the corner, wasn't it?

A Yes, sir.

Q You did not stop on your way down to the corner?

A No, sir.

Q You stayed around the corner, could you tell us anything about how long?

A Oh, I don't know just how long it was.

Q Do you suppose it was 15 or 20 minutes? I donot want you to get to say one way or the other, but if you can say, why, tell us as best you can, which is a guess, I knew that as well as

you do; if you cannot say at all, just tell me that you cannot say.

A I could not tell you just how long I was down in there exactly.

Q You stayed there awhile on the corner?

A Yes, sir.

Q Then you went back and sat down on the porch as you have described?

A Yes, sir.

Q All of these people were there that you have mentioned when you went back?

A Yes.

Q Then you stayed where you were until the shooting?

A Yes, sir.

Q Then you ducked in back of the store?

A Yes, sir.

Q Well, now, what were they talking about on the porch?

A I did not pay any attention to it. I was just sitting there with my boy friend there watching.

Q Were you talking any?

A I was talking to the other boy.

Q Any talk about the people who had moved in the Sweet house?

A Yes, sir.

Q And the policemen guarding them?

A Yes, sir.

Q You talked about the colored people coming into the district?

A Yes, sir.

Q They all talked about it?

A Yes, sir.

Q And about people on the street?

A Yes, sir.

Q Did you see the streets were blocked off?

A Yes, sir.

Q They were blocked off after you came by, weren't they?

A Yes, sir.

Q When you came north, they had not blocked off the street up at Goethe, had they?

A They did not block them until the shooting.

Q I mean, putting a traffic officer there to keep people from going down?

A I did not pay much attention to that.

Q You do not know whether it was when you came north, or not, or south?

A No, sir.

Q But you did hear later that the streets were blocked off?

A Yes, sir.

Q And there were traffic officers north and south of Charlevoix on Garland, and traffic officers east and west of Garland on Charlevoix.

MR. TOMS: Wait a minute. Do you know whether they were there or not, George?

A I do not know, I am not positive.

Q All right; you need not answer that. Do you know whether there were any traffic officers at any time while you were there on Charlevoix and Garland?

A I know just while the shooting was going on, they had them

blocked, they made the cars go around ^{down} to St. Clair and around. They made the cars go around.

Q They made the cars go around where?

A Down to St. Clair, they made them go around the block; they would not let them go near the house.

Q You don't know when they began doing that?

A Just about - just when the shooting was going on.

Q Well, don't you know, or, you don't know when the traffic officers were placed at these different streets?

A Yes, sir, as soon as the shooting started, the policeman turned the cars off.

Q Well, now, you heard it, didn't you, that a traffic officer was placed up here at Goethe Street about where you live. This is the corner down here, and this is north. You heard that one was put up there, didn't you?

MR. TOMS: That is so obviously hearsay that I object to it.

MR. DARROW: Well, I am doing it to make his testimony correspond, that is all. I don't care anything about it one way or the other.

Q Did you know anything at all about the traffic officers excepting the one that you saw at Garland and Charlevoix?

A No, sir.

Q All right. Now, when you got back up there, you saw some boys come out of the alley and throw some stones?

A I saw the boys in between the Dove house and the next house, between the first and second houses.

Q They came out even with the house, didn't they?

A Even with the steps.

Q How?

A Even with the steps.

Q How close was it to you?

A How do you mean?

Q How close were these boys to you when they threw the stones?

A Oh, about 50 feet I imagine; 50 or 60 feet.

Q They came out even with the steps of Dove's house, didn't they?

A Yes, sir.

Q And close to some of the people who were sitting there?

A Yes, sir.

Q How many of those boys were there?

A Oh, about five I imagine or so.

Q About five?

A Yes, sir.

Q Did you know any of them?

A No, sir.

Q You knew most of the boys there in the neighborhood, didn't you?

A Yes, sir.

Q It was not any of them?

A No, sir.

Q Did anybody say anything about it, or to them, when they threw the stones?

A I do not know.

Q What?

A I do not know. I didn't hear anything.

- Q You didn't hear anybody say anything?
- A No, sir, I wasn't paying that much attention to the boys there.
- Q You were paying enough attention so that you saw them?
- A I just happened to notice them and that is all.
- Q You don't know how many stones were thrown, do you?
- A No, I did not pay much attention, I did not count them.
- Q You don't know how many stones were thrown, and you do not know the size of the stones, do you?
- A No, sir.
- Q You know that they were thrown towards the house?
- A Yes, sir.
- Q Do you know where the boys went to afterwards?
- A No, sir, I do not.
- Q They were thrown towards the house where these colored people were?
- A Yes, sir.
- Q You heard nobody speak to the boys who did it?
- A I did not pay much attention to them.
- Q Well, did you hear anybody speak to them?
- A No, I did not.
- Q Did you see or hear any other stones that evening?
- A No, sir.
- Q Did you hear any glass broken?
- A No, sir.
- Q You did not hear or see it, if there was any?
- A No, sir.
- Q Where did you say you saw the fire from; what you thought

were guns?

A Well, upstairs in between the Sweet house and the house next to it.

Q You don't know what window, do you?

A Yes, sir.

Q What window?

A I imagine, I think there is two windows up there, and they were fired out of both of them.

Q You say there are two windows on the north side?

A Yes, in the upstairs.

Q There are windows in front too?

A Yes, sir.

Q Did you see any fire come from there?

A I did not notice; I was not there long enough.

Q The front window is plainer from where you sat than the side windows, isn't it?

A Well, I was just off on one angle from it.

Q You couldn't see the side windows, could you?

A Yes, sir.

Q You knew about where they were, but you could not see them, could you?

A Yes, sir.

Q You didn't see any fire from the front windows?

A I was not there long enough to see any.

Q Well, did you see any?

A No, sir.

Q Do you know how long this shooting took?

A Oh, they fired a few shots, and then they stopped, and then

they started again.

Q Do you know how long they stopped?

A Oh, it was a second or so.

Q You would think about a second?

A Yes, sir.

Q You do not know how many shots were fired altogether?

A No, sir.

Q You could not tell that, of course, could you?

A No, sir.

Q Did you see anybody drive up to the Sweet house while you sat there, and go into it?

A I did not pay no attention.

Q Well, did you see them?

A No, sir.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q While you were sitting on the Dove porch, did you hear what the other people were talking about?

A No, sir.

Q Mr. Darrow asked you about a conversation, and that was between you and Ulric?

A Yes, sir.

Q You say that you saw about eight or ten policemen?

A Yes, sir.

Q Were they all chasing people away?

A I don't know. I imagine they all were - that that is what they were put on duty to do.

Q What did you see them do?

MR. DARBOW: Wait a minute. Let him finish his answer.

Q Allright.

MR. DARBOW: What was that answer?

A Well, that is what they were put on duty to do, was to keep the people back.

MR. DARBOW: Excuse me for speaking roughly. I just wanted to get that answer.

Q How many policemen did you see tell people to go away?

A I could not say.

Q Were they all doing that or just a few of them doing that?

MR. DARBOW: Pretty leading.

A Well, they were standing all around there different places. They were in the alley, and standing all around there. There was one across the street at the telephone pole, leaning against the telephone pole there on Garland. There was one up right by Sweet's house. There was one, I guess, at the next corner.

Q That is all, George.

RECROSS EXAMINATION

BY MR. DARBOW:

Q Now, you could hear Mr. and Mrs. Dove talk while you were sitting on their porch, couldn't you?

A They were over on the other side of the steps.

Q How far away. You were all on the same porch?

A Yes, sir.

Q And the perch which covers the front of that building?

A Yes, sir.

Q There was no trouble for you to hear what was said?

A I was on one end and they were on the other.

Q Could you hear then, however?

A I was not paying any attention.

Q You could hear them though, couldn't you?

A Yes, if I tried to; if I had wanted to.

Q That is all.

MR. TOMS: That is all.

(Witness excused).

- - - 0 - - -

U L R I C A R T H U R, was thereupon called as a witness on behalf of the People herein, and having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q How old are you, Ulrich?

A 13.

Q Do you know what it means when you raise your hand and swear to tell the truth?

A Yes, sir.

MR. DARRON: We do not make any objection on that.

Q Allright, but he is under 14.

MR. DARRON: Unless it is necessary, we do not make any objection on that.

Q No. Now, do you know George Suppus?

A Yes.

Q Were you and George together on the night of September 9, up on Garland near Charlevoix?

A Yes, sir.

Q Where do you live, how near to George?

A I live two blocks from him.

Q Which way from Charlevoix?

A South.

Q You live south of Charlevoix?

A Yes, sir, on Harding.

Q How far?

A One block.

Q You live near Waterloo?

A Yes, sir.

Q Talk up as loud as you can, will you, Ulric. You live on Garland?

A On Harding.

Q On Harding?

A Yes, sir.

Q How far is that from Garland?

A Two blocks.

Q Harding near Waterloo?

A Yes, sir.

Q Then you live two blocks from Garland and a block from Charlevoix?

A Yes, sir.

Q Were you up around Garland and Charlevoix on this evening?

5

A Yes, sir, I was sitting on the steps across the road.

Q You met George first, did you?

A Yes, sir.

Q Where did you meet him?

A I don't know.

Q What?

A I forget.

Q Somewhere there in the neighborhood?

A Yes, sir.

Q Then did you go with him?

A Yes, sir, I was with him all night.

Q What?

A I was with him all the time.

Q Then where did you go with George?

A We were standing around there and the policeman told us to keep on moving so we went over and sat down on the steps.

Q What steps did you sit on?

A The first step this side of the store.

Q That is, the first steps north of the store?

A Yes, sir.

Q Towards Mack?

A Yes, sir.

Q Do you know who lives there?

A No, sir.

Q You know it is Mr. Dove's house?

A No, sir.

Q Do you know his name?

A No, sir.

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Q Anyway that is where you sat down with George?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q While you were sitting there, what happened?

A We were sitting there talking, and a little while after they started to shoot, and we started to run.

Q There is the story in a nutshell.

MR. DANKOW: Tried to beat the bullets, I suppose.

Q Did you see where the shots came from?

A Well, they came out of the second floor.

Q Of what house?

A Right on the corner, the corner of Garland.

Q The corner of Garland and Charlevoix, the northwest corner?

A Yes, sir.

Q Do you know where the Sweet house is, where the Sweet family lived, the colored family?

A Yes, sir.

Q Is that the house where the shots came from?

A Yes, sir.

Q Which part of the house did they come from?
coming

A Well, I just saw them ~~come~~ from the front.

Q You saw them coming from the front.

A Yes.

Q Which floor?

A The second.

Q The second floor?

A Yes, sir.

Q In front?

A Yes, sir.

Q How many shots did you hear, can you tell?

A I do not know.

Q What?

A I don't know.

Q Well, about how many?

MR. DARBOW: I object, he is pretty young, and he says that he cannot tell.

THE COURT: He may make an estimate.

MR. DARBOW: I don't think it would enlighten us, would it, for him to tell?

Q Were there a few or a lot of them?

MR. DARBOW: That is still more indefinite. We have already got a lot of evidence on that. What is the use of having the boy guess.

THE COURT: I think it is very indefinite, but so much of this has been indefinite on both sides with regard to the shots, that I do not like to stop it with this witness. If he can make any kind of a definite answer, he may answer.

Q You can count?

A Yes, sir.

Q What grade are you in?

A Seventh.

Q Seventh grade?

A Yes, sir.

Q Well, now, what is your best judgment as to how many shots you heard?

A 15.

Q How did they sound, all along in a row, or all at once?

A Well, there was one shot first, and then they started after.

MR. BARNOR: Will you read that answer?

(The answer was read)

Q Then what did you and George do?

A We ran behind the stores.

Q Until the shooting stopped?

A No, sir; we just run behind the stores in the alley and then we stayed there.

Q Then did you go home?

A No, sir, we stayed there for a little while and then we went home.

Q When you went home?

A Yes, sir.

Q Did you see some policemen around there before the shooting?

A There was one right in front of the house where we were sitting.

Q That is where you were sitting on the steps?

A Yes, sir.

Q Did you see any others?

A No, sir.

Q I did not hear your answer, Ulrich?

A No, sir.

Q You did not see any others?

A No, sir.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROS:

Q Ulric, I will stand way back here so that you can speak so that I can hear you, and then these men can hear you. You are 13, are you, Ulric?

A Yes, sir.

Q When was your birthday?

A The 4th of July.

Q You picked out a good day for a birthday. You will be 14 on your next birthday?

A Yes, sir.

Q You go to school up north - or where do you go to school?

A The Foch.

Q What?

A The Foch.

Q Did you go to school that day?

A I don't just remember.

Q Or don't you remember?

A I don't remember.

Q What?

A I don't remember.

Q Do you know George pretty well?

A Yes, sir.

Q Play together a good deal?

A Yes, sir.

Q You live about a half a mile apart, don't you?

A Well, I don't know.

Q That is not much for a boy though, is it?

A No.

Q You live three blocks from the corner of Charlevoix and George lives two blocks. Well, it is four blocks.

MR. TOME: Four and a half blocks.

Q That means a half a mile in Chicago, but I do not know what it means here. It ought to mean more here. You live four blocks apart?

A Yes, sir.

Q Did you see him often?

A About every night.

Q What?

A I played with him about every day.

Q Did you see him the day before this shooting?

A No. He came back from a motor trip the day before.

Q Then you saw him, did you?

A I saw him that day; that was the first time I saw him.

Q That is, on the day of the shooting?

A Yes, sir.

Q What time of the day?

A Oh, in the afternoon sometime. I don't know just when.

Q Well, where did you see him first on that day?

A He came down to call for me.

Q Will you just speak a little louder. You don't mind?

A He came over to my place to get me.

Q Do you know about what time that was of the day?

A I don't know.

Q What?

A I don't know.

Q Well, was it in the forenoon or the afternoon?

A It was in the afternoon.

Q Late or early in the afternoon?

A Well, I do not know.

Q Had you had your dinner?

A Yes, sir.

Q I mean your lunch. You have something to eat in the middle of the day, don't you?

A Yes, sir,

Q And you had had it that day, had you?

A Yes, sir.

Q Were you in your house?

A I was in the back yard.

Q Did you go away with him?

A Not right away.

Q Did he stay and play with you awhile?

A Yes, sir.

Q You talked with each other, I suppose?

A Yes, sir.

Q Do you remember what you talked about?

A No, sir.

Q Did you talk anything about the colored people that had moved in there?

A No sir.

Q You had heard about it, hadn't you?

A I heard about that that afternoon. We were going over to his place and I heard about it that afternoon.

Q Hadn't you heard a good while before that that they were

going to move in?

A No, sir.

Q You knew they were going to move in, didn't you?

A Yes, sir.

Q All the neighbors were talking about that, weren't they?

A Yes, sir.

Q How is that?

A Yes, sir.

Q Did you and George say anything about it when you first came over there?

A No sir.

Q Do you remember what you did talk about?

A No, sir.

Q You might have talked about it then; if you don't remember, mightn't you?

A Well, I did not talk about that.

Q What time did he go away from the house?

A I don't remember.

Q Well, four or five o'clock?

A About that; no, I think about three.

Q What?

A He went away about three.

Q Did he come back again in the afternoon?

A No, sir.

Q What?

A No, sir.

Q Did you agree to meet him again that afternoon?

A No.

Q You just met by accident in the evening?

A Yes, sir.

Q What?

A Yes, sir.

Q Where did you meet in the evening?

A I don't know where we met.

Q Don't you believe you could think for a minute and tell us? Did you meet him up on the corner of Garland and Charlevoix?

A Around there some place.

Q What time was that?

A About six o'clock.

Q Wasn't it just getting dark when you met there?

A No, sir.

Q You are quite sure about that?

A Yes, sir.

Q You think it was just about six, do you?

A Yes, sir.

Q Had you had your supper?

A Yes, sir.

Q What time did you have your supper?

A Around five.

Q What time did you have dinner? You run your dinner and supper in pretty close together, don't you? Don't you think you had your supper about six?

A We have it between five and six.

Q It is nearer six, though, isn't it?

A Sometimes.

Q Well, anyway, tell us what you think about what time it was?

Just do the best you can, that is all you can do. About what time do you really think, come to think it over, you met George up around the corner of Charlevoix and Garland?

A It was around six o'clock.

Q All right. You had been to supper?

A Yes, sir.

Q Did you expect to meet him there?

A No, sir. I was just walking around there.

Q Now, what were you over there for? You know why you went over there, don't you?

A I always go to the school and have a game of baseball or something, and I was over there.

Q Will you read that answer to me.

(The answer was read)

Q Where do you have a game of baseball?

A In the school yard.

Q Did you have a game of baseball that evening?

A I was there before, that day before, and then I was walking home and I met him.

Q You had been playing baseball on the school grounds at the corner of Garland and Charlevoix?

A Yes, sir.

Q When did you get through playing?

A I don't know.

Q Haven't you got this just a little wrong? Did you play baseball before supper or after supper?

A After supper.

Q And you played that night?

- A Yes, sir.
- Q Who did you play with?
- A Some of the kids around there.
- Q Do you remember any of their names?
- A No, sir.
- Q Well, if you do not, just say that you do not.
- A No, sir.
- Q Did you hear anything about colored people at that time?
- A Well, I don't remember.
- Q You don't remember?
- A No, sir.
- Q Did you see the policemen, or don't you remember?
- A Well, there were policemen around there.
- Q Do you know how many?
- A (No answer from the witness).
- Q How is that?
- A I don't know just how many.
- Q Did you say that you started home from playing baseball when you met George?
- A Yes, sir.
- Q That was about six o'clock?
- A Yes, sir.
- Q I don't imagine you played a whole game of baseball, did you, nine innings?
- A No, sir. I was just playing for a little while.
- Q Yes. Then you turned around and went with George?
- A Yes, sir.
- Q Where were you going?

A We were going over to the -

Q What?

A We were going over to the corner.

Q What corner?

A Charlevoix and Garland.

Q What for?

A To just - to see what was going on.

Q Where?

A Where the colored people moved in.

Q That is why you went?

A Yes, sir.

Q Well, did you linger around the corner a little while?

A We stayed there for a little while and then the policeman told us to move on, and we went over and sat down on the steps.

Q The policemen told you to move along?

A Yes, sir.

Q Then you moved?

A Yes, sir.

Q Any other boys with you?

A Yes, sir.

Q Who?

A George was the only one.

Q What?

A George was the only one with me.

Q I mean any other boys besides George?

A No, sir.

Q You went along and you went up to the steps?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q You saw the policemen there telling people to move along, didn't you?

A Yes, sir.

Q There were a good many policemen around there, and a good many people and the policemen were telling the people to move along?

A There was just one around where we were sitting.

Q Just one where you were?

A Yes, sir.

Q But there were a good many people around the house, weren't there?

A Yes, sir.

Q There was only one talked to you?

A Yes, sir.

Q That was enough, wasn't it?

A Yes, sir.

Q You went up to the house?

A Yes, sir.

Q How long did you stay there before you heard any shooting?

A I don't know about how long.

Q Have you any idea how long?

A About an hour.

Q What?

A About three quarters of an hour or an hour.

Q What were you doing?

A We were just sitting there.

- Q You were not saying a word, I suppose?
- A Yes, sir.
- Q What were you talking about?
- A Talking about the people.
- Q What people?
- A The colored people.
- Q All the time talking about the colored people?
- A Most of the time.
- Q What?
- A Most of the time.
- Q Who else was on the porch?
- A I don't know anybody else who was there.
- Q Was there anybody on the porch but you and George?
- A Yes, sir.
- Q But you don't know their names?
- A No, sir.
- Q Is that right?
- A No, sir, I did not.
- Q What were they talking about?
- A I don't know.
- Q What?
- A I don't know.
- Q Did you hear anything they said?
- A No, sir.
- Q Didn't hear a word that they said?
- A I heard them talking, but I could not make out what they were saying.
- Q Do you know whether it was about the colored people?

MR. TOMS: Now, just a minute. He has answered it. He said he couldn't make out what they were saying.

THE COURT: The objection is overruled. You may have an answer to that question.

Q Did you hear them say anything about the colored people?

A No sir.

Q Do you know what you were saying about the colored people?

A I do not remember.

Q Were you saying anything about getting them out of there?

MR. TOMS: Just a minute. He says he does not remember.

Q Don't remember anything at all about it, is that it?

A We were talking about them. That is all I remember.

Q You know that you were talking about them?

A Yes, sir.

Q Can't remember anything you said?

A No, sir.

Q But you are sure you were talking about them?

A Yes, sir.

Q All right. That talk was about three quarters of an hour you think?

A Yes, sir.

Q Did you see anybody throw any stones?

A Well, there was four or five kids between the houses, they were throwing stones.

Q Between what houses?

A The first and second house.

Q Where were they throwing them?

A They were throwing them at the house where the colored people moved in.

Q I did not get that. I suppose it is the same thing though.

MR. TOMS: Throwing them at the house where the colored people lived.

Q You did not say anything to the boys for throwing the stones, did you?

A No, sir.

Q Did you hear anybody else say anything to them?

A No sir.

Q There were about five of those kids?

A Yes, sir.

Q Do you know how long they were throwing them?

A I could not say.

Q Well, were they throwing stones five minutes, ten minutes or one minute; couldn't you tell us anything about that?

A No, sir.

Q You have not any idea how long?

A No, sir.

Q Did you hear the stones hit the house?

A Yes, sir.

Q Have you any idea how many stones you heard hit the house?

A I just heard one or two hit the house.

MR. TOMS: Which house do you mean now?

A The corner house where the -

Q What did he say?

MR. HAYES: The corner house; he heard one or two hit the corner house.

A They were throwing them at the house where the colored people moved in.

Q I did not get that. I suppose it is the same thing though.

MR. TOMS: Throwing them at the house where the colored people lived.

Q You did not say anything to the boys for throwing the stones, did you?

A No, sir.

Q Did you hear anybody else say anything to them?

A No sir.

Q There were about five of those kids?

A Yes, sir.

Q Do you know how long they were throwing them?

A I could not say.

Q Well, were they throwing stones five minutes, ten minutes or one minute; couldn't you tell us anything about that?

A No, sir.

Q You have not any idea how long?

A No, sir.

Q Did you hear the stones hit the house?

A Yes, sir.

Q Have you any idea how many stones you heard hit the house?

A I just heard one or two hit the house.

MR. TOMS: Which house do you mean now?

A The corner house where the -

Q What did he say?

MR. HAYES: The corner house; he heard one or two hit the corner house.

Q What is the house where the colored people lived?

A Yes, sir.

Q Do you know whether any of them broke any glass?

A I heard glass break, I guess it was the stones.

Q You don't know how many stones you heard hit the house, do you?

MR. TOMS: He has answered that.

Q No.

THE COURT: Objection overruled.

MR. TOMS: He said two or three.

Q You don't know how many stones you heard hit the house, do you?

A Not for sure, no.

Q How long after the stones hit the house ^{and} you heard the glass break was it before you heard any shooting?

A Two or three minutes.

Q Did you see an automobile drive up to the house?

A Yes, sir.

Q About how long was that before the shooting?

A Oh, I don't know.

Q Can you tell me just about how long?

A Well, it was before the kids were starting to throw.

Q They threw when the automobile drove up, didn't they?

A Well, after it drove away, they started to throw.

Q Oh, yes, just after they drove away?

A Well, not right after.

Q There were one or two colored people got out of it and went into the house, didn't they?

A Two I think.

Q What?

A Two.

THE COURT: Was it after that automobile came that the shooting took place, do you remember?

A Yes, sir.

Q The shooting began right after the stones were thrown and the window broken, didn't it?

MR. TOMS: Now wait a minute. Don't put that into your question. He did not say the window was broken.

Q Well, I will leave it out then. You heard the glass, didn't you?

A Yes, sir.

Q At the time the stones were thrown?

A Yes, sir.

Q And the shooting occurred right after it, didn't it?

A Well -

Q What?

A Yes, sir.

Q And then you boys ran?

A Yes, sir.

Q Well, I don't blame you any for that. You ran in behind the building?

A Yes, sir.

Q And stayed there?

A We went out in the alley and stayed.

Q What?

A We went out in the alley.

Q Well, that is the alley that backs up to the grocery store?

A Yes, sir.

MR. TOMS: No, no. There was no alley there. It is in the alley in the rear of the Dove house (indicating).

Q I see. The grocery store is here (indicating). You mean that you went back to this alley at the rear of the Dove place?

A Yes, sir.

Q Is there any buildings around it, where you were?

A Buildings?

Q Were there any buildings which you were behind?

A No, sir, there is a tire shop there.

Q Did you get behind it or in front of it?

A I was between the tire shop and the stores there.

Q And what?

A I was between the tire shop and the stores.

Q Well, there was something in front of you so that you thought you would be safe if there was any more shooting?

A Well, the store.

Q The store?

A Yes.

Q That is what I had an idea of. Is that a brick store?

A Yes, sir.

Q There was a tire shop adjoining the brick store?

A No, sir. It is on the other side of the alley.

Q On the other side of the alley, the tire shop?

A Yes, sir.

Q You went into that space between the house, where the steps were, and the store?

- A Yes, sir.
- Q How long did you stay there?
- A Five or ten minutes.
- Q Then you went home?
- A Yes.
- Q That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

- Q Did you see any of the stones actually hit any building?
- A I did not see them; I heard the stones hit.
- Q When you heard them, you don't know what they hit, do you?
- A No, sir.
- Q It might have been the Sweet house or the house next door to it?

MR. FRIEDMAN: That is leading.

- Q It is objected to, is it?

MR. DARRON: I think we will object to it.

- Q Allright.

THE COURT: I sustain the objection.

MR. TOMS: That is all, Ulric.

MR. DARRON: That is all.

THE COURT: We will take a recess until 2 o'clock.

(Recess for luncheon).

Tuesday, November 10, 1925.

2 o'clock P.M.

Court met pursuant to recess.

W I L L A R D D I H L E, was thereupon called
as a witness on behalf of the prosecution, and having
been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q What is your name please?

A Willard Dihle.

Q Where do you live Willard?

A 2253 St. Clair Avenue.

Q And St. Clair, I understand is one block east of Garland,
is that right?

A That is right.

Q And between what streets on St. Clair do you live?

A Waterloo and Kercheval.

Q What is that?

A Waterloo and Kercheval.

Q You live then some two or three blocks away from the corner
of Charlevoix and Garland?

A Yes, sir.

Q How old are you, Willard?

A 14.

Q Were you in the neighborhood of Charlevoix and Garland on the night of the 9th of September?

A I was.

Q About what time did you come to that neighborhood?

A Near eight o'clock.

Q Around eight o'clock?

A Yes.

Q Was it light then or was it getting dark?

A Why, I am pretty sure it was getting dark.

Q Were you alone or was some one with you?

A I was alone.

Q What was your purpose in coming over there?

A Curiosity.

Q Curiosity. And what did you see after you got there?

A Why I didn't see much of anything except the people.

MR. DARROW: What is that answer please?

(The answer was read by the reporter)

Q Do you know where the Sweet house is?

A Yes, sir.

Q The house where Dr. Sweet moved in?

A Yes, sir.

Q Now, did you see or hear any shooting with reference to that house?

A I heard it.

Q Let's see, where were you at the time?

A Between the second and third house on the other side of the street.

Q Well, that was on Garland, is that right?

A Yes, sir.

MR. DARROW: Say, Willard, won't you speak just a little louder? The last juror wants to hear you in the jury box.

A Yes, sir.

MR. DARROW: So, if you will, speak a little louder and it will help us all.

Q Now, do you remember how many shots you heard?

A I do not.

Q Well, did you hear several of them?

A Yes, sir.

Q Do you know where they came from?

A Not exactly. I don't know exactly where they came from.

Q Well, could you trade the sound of the shots?

A Well, they came from somewheres near Charlevoix.

Q Did you see any firing or fire?

A I did not.

Q You cannot give us even the number of shots you heard?

A No.

MR. DARROW: Where did he say he stood?

MR. MOLL: Between the second and third house, across the street.

Q Now, were those shots fired altogether, or was there an interval of time between the shots?

A Oh, there was a short interval between them.

Q About how long would you say?

A I couldn't say.

Q Now, do I understand that there was several shots fired

in succession, with a short interval, and then another series of shots?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q And how long did the shooting last altogether?

A I don't know.

Q Well, was it a matter of seconds or minutes?

A Within a few minutes.

Q Now, you say you were standing across Garland, between the second and third house?

A Yes, sir.

Q Could you see Dr. Sweet's house plainly?

A Not plainly, no, sir.

Q Well, you could see across the street?

A Yes, sir.

Q Did you see any persons in front of his house?

A No one except the officers.

Q You saw police officers?

A Yes, sir.

Q And they were uniformed?

A Yes, sir.

Q How many did you see?

A Two.

Q Two?

A Yes, sir.

Q Were there any officers on your side of the street?

A Yes, sir.

Q Where were they?

A They were walking up and down.

Q On the sidewalk, I presume?

A Yes, sir.

Q And were there people on your side of the street?

A Yes, sir, there were a few.

Q What were they doing?

A They were walking back and forth, and stopped a minute or so and they would have to walk on.

Q Did you see the officers speaking to people on your side?

A They just motioned to them, and I guess they knew what it meant.

MR. DARROW: Now, read that answer.

(The answer was read by the Reporter.)

MR. DARROW: Willard, speak up so that we can all hear you, won't you?

A Yes, sir.

THE COURT: Raise your voice a little too, Mr. Moll.

MR. DARROW: Just like you were playing baseball.

Q Now what did you do after the shooting?

A Went home.

Q Well, did you leave there?

A Yes, sir.

Q And went directly home?

A Yes, sir.

Q You did not stay around at all?

A I came back with my father.

Q Did you see anyone there who had been shot?

A Not until they carried him into the patrol.

Q Well, did you see, was it a man?

A I couldn't tell.

Q But you saw them carry some one into the patrol?

A Yes, sir.

Q From where, do you know?

A From the Battery store on the alley, between Charlevoix and St. Clair Avenues.

Q That battery store was over on Charlevoix, wasn't it?

A Yes, sir.

Q And you don't know who that was?

A No, sir.

Q Did you see anyone carried from the vicinity of where you had stood at the time of the shooting?

A No, sir.

Q You saw no one shot then, yourself?

A No, sir.

MR. MOLL: That is all.

CROSS EXAMINATION

BY MR. DARROW:

Q Well, now, I am going to stand away back here, and then I think you will talk loud. Can you make me hear, away back here?

A I think so.

Q I didn't hardly hear that. You live about three blocks from Charlevoix and Garland, do you?

A Yes, sir.

Q What?

A Yes, sir.

THE COURT: Speak up, Willard.

Q What is your father's business?

A City fireman.

Q And were you going to school that day?

A Yes, sir.

Q Where did you go to school?

A Southeastern.

Q Where?

A Southeastern.

Q I suppose school begins about 9 o'clock, doesn't it in the morning?

A I have to go at 11.

Q 11?

A Yes, sir.

Q Some others go before you, I suppose?

A Yes.

Q Well, what time did you go home that night?

A When?

Q What time did you go home that night, after school?

A I got home about five minutes after four.

Q You went over to this place about dark, did you?

A Yes sir.

Q You don't know when it was except that it was around dark, is that it?

A It was around eight o'clock, also.

Q Is there anything to make you know that it was around

- eight o'clock? Did you look at the clock or anything like that?
- A I could just about tell.
- Q How?
- A I could tell.
- Q Well, it was dark at that time, wasn't it?
- A Almost.
- Q But it was not clear dark then; it was not fully dark at that time?
- A No.
- Q All I am interested in is trying to fix the time as near as I can. You went over to Charlevoix and Garland?
- A Yes, sir.
- Q Out of curiosity?
- A Yes, sir.
- Q That was curiosity because you knew that the colored people had moved into the corner there?
- A I did not know who had moved in.
- Q You knew they were colored people, didn't you?
- A No, sir.
- Q Hadn't you heard anything about it up to that time?
- A No, sir.
- Q You never heard anybody say anything about it in the neighborhood?
- A No, sir.
- Q Well, what curiosity had you to go over there?
- A When I came home from school, there were a few people around there, and I had to go home; my mother was not home

at that time, and I was the only one there.

Q You what?

A I was the only one there and I had to do what work I had to do.

Q There was a few people around there?

A Around the car line of Charlevoix.

Q That was a little after three o'clock, or between three and four?

A That was between 4 and 5.

Q Between 4 and 5?

A Yes, sir.

Q And you saw a policeman there too, didn't you?

A Yes, sir.

Q And you didn't know then that any colored people had moved in there?

A I didn't.

Q What?

A I didn't.

Q You never heard anybody say anything about it?

A No, sir.

Q But you went back to see what was going on over there, did you?

A There is a school yard across there, and the boys always go up there and play baseball and things like that, and the people were there.

Q You did not want to play baseball at eight o'clock at night, did you?

A It was before this.

Q What?

A It was before this that I went up there.

Q When did you get up there?

A I don't know.

Q What?

A I don't know.

Q Then, you don't know whether it was eight o'clock or not?

A It was eight o'clock when I went across the street there on Charlevoix and Garland.

Q Well, when you went to Charlevoix and Garland, where did you go from, where did you start from?

A I started from the schoolyard.

Q When did you go to the schoolyard?

A Sir?

Q When did you go to the schoolyard?

A Well, it was after supper.

Q Did you play baseball?

A Yes, sir.

Q And nobody told you anything about the colored people?

A No, sir.

Q But you saw people gathered around there and then you went over there, is that right?

A Yes, sir.

Q And you saw policemen there?

A Yes, sir.

Q What were the policemen doing?

A They were standing there

Q Were they doing anything else?

A Not that I could see.

Q How many policemen did you see?

A Two.

Q Is that all you saw there that night, two policemen?

A You mean after eight o'clock?

Q After eight o'clock?

A No, sir.

Q You saw more than that, is that what you mean?

A That was after eight o'clock, when I went over there, I saw some.

Q Is one policeman all you saw after eight o'clock?

MR. MOLL: Just a minute.

A No.

MR. MOLL: He said he saw more after eight o'clock, more than two.

Q (By Mr. Darrow): How many did you see after eight o'clock?

A About five.

Q Where were they?

A Two were on Charlevoix, and two were across the street in front of the Sweet home, and one was on my side of the street.

Q Any of them walking around, any of the policemen?

A They were.

Q Walking around amongst the other people?

A Yes, sir.

Q What were they doing?

A I couldn't tell you.

Q Keeping the people moving?

A Yes, sir, that is the only thing I could see.

Q What?

A As soon as the policeman walked up near them, I didn't hear him tell them anything, but they moved, and I thought that was the only thing he could be doing.

MR. DARROW: Will you read that?

(Answer read by the reporter.)

Q All right. How many policemen were doing this?

A The one on my side of the street.

Q Do you know how it was on the other side of the street?

A Policemen were standing together.

Q How?

A The policeman was standing together.

Q Did you notice any policemen further north than there?

A No, sir.

Q You don't know whether there was or not?

A No, sir.

Q When any number of people would gather together, would they have them move?

A Yes, sir.

Q How long did you watch them?

A From about five to fifteen minutes.

Q Anybody with you?

A No, sir.

Q Then where did you go?

A I went home.

Q Well, didn't you go up to that building before you went home?

A What building?

Q The flat building?

A What flat building?

Q Up beyond the store, north of the store?

A I don't know where you speak of.

Q What?

A I don't know what building you are speaking of.

Q All right. When you were at the corner, whereabouts were you, what part of it, - - right in the street?

A I was not at the corner.

Q The corner of Charlevoix and Garland?

A I was not out there. I was between the second and third house.

Q You did not stop at the corner at all?

A No, sir.

Q You went past it?

A Yes, sir.

Q All right. And you went to between the second and third house?

A Between where, did you say?

Q Between the second and third house beyond the corner?

A Yes, sir.

Q Do you remember the second house? What was it?

A It was a flat - - it was near a flat, anyway; they looked alike.

Q Did you see anybody there?

A There were a few people sitting on the porch.

Q Anybody anywhere else?

A There were not many on the sidewalk either.

Q Were there any?

A A few.

Q Were there any people in front of it?

A In front of the house?

Q Yes.

A Yes, sir.

Q Were there any people on the vacant place alongside of the store?

A I didn't see any.

Q Were there any automobiles parked there?

A There were a few.

Q Do you know how many were sitting on the porch there?

A I do not.

Q And you were between that porch and the next house, were you?

A I was not between the porch. I was out further, near the sidewalk.

Q Anybody with you?

A No, sir.

Q What?

A No, sir.

Q Did you hear anybody talk there?

A No, sir.

Q There is an alley in there, isn't there?

MR. MOLL: Where?

Q (By Mr. Darrow): Between those two houses?

A No, sir, there is a walk.

Q There is a walk in there, anyway, between the two houses?

A Yes, sir.

Q Did you see anybody come out of that?

A No, sir.

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Q Did you see anybody throw stones?

A No, sir.

Q Did you hear any stones against the house?

A No, sir.

Q Or any glass broken?

A No, sir.

Q The first thing you saw or heard that was strange was the shooting, was it?

A Yes, sir.

MR. DARROW: That is all.

MR. MOLL: That is all, Willard.

(Witness excused.)

- - - - -

H A R R Y S H O R T, a witness called
on behalf of the People, being duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q Where do you live?

A 2119 Harding Avenue.

Q That is which way with reference to Garland?

A Which way?

Q Yes.

A East.

Q How far is your home from the intersection of Garland and
Charlevoix?

A Four blocks.

Q Were you in the vicinity of that intersection on the evening
of September 9 of this year?

A Yes, sir.

Q About what time did you get there?

A About 7:45.

Q What were you doing in the neighborhood, please?

A I was just passing by at the time and stopped.

Q Walking or riding?

A Riding.

Q Riding in what?

A A Ford sedan.

Q You were driving by?

A Yes, sir.

Q Was your attention attracted to the neighborhood in any way?

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A It was.

Q How?

A By three officers in front of me.

Q On which street were you driving?

A Garland.

Q Had you passed any traffic officers at that time?

A No.

Q Which way did you come from?

A I was going south on Garland.

Q You passed the intersection then of Goethe and Garland?

A No, I did not go that far.

Q You were coming south you say?

A I stopped at a fellow's house between Charlevoix and Goethe on Garland.

Q You had passed the intersection of Goethe coming down, hadn't you?

A I turned.

Q Oh, I see. Where did you leave your car?

A In front of the apartment.

Q That is on Garland, you say, between Charlevoix and Goethe?

A On Garland between Charlevoix and Waterloo is where that apartment was on the corner.

Q Waterloo?

A Yes, sir.

Q That was south of Charlevoix?

A South of Charlevoix.

Q Were you alone at the time?

A I was.

Q Where did you see these police officers?

A There was one on each corner and three in front of the house.

Q You mean that they were on all corners at the intersection?

A On the south side off Charlevoix, one in front of the school-house, and another one in front of the apartment.

Q Was there an officer over by the store?

A I did not notice.

Q There were others in front of the house?

A Yes, sir.

Q That was about 7:45?

A Somewhere around there.

Q Was there an officer stationed then at the intersection directing traffic?

A No, sir.

MR. DARROW: You mean the intersection of Garland and - - ?

Q Garland and Charlevoix. How long did you remain there?

A Until after the shooting.

Q How long was that?

A Oh, about a half an hour.

Q Was it light or dark when you got there?

A Light.

Q Did you see any persons in the vicinity?

A Yes, sir, I did.

Q And where were they?

A Walking up and down Charlevoix.

Q Charlevoix?

A Yes, sir.

Q That is near the intersection?

A No, not very near it.

Q Were there any persons around the apartment house on Garland land?

A I do not know.

Q You were right there. That is where you stopped your car and got out of the car?

MR. DARROW: Where was this apartment house, on Garland?

Q On the corner of Garland and Charlevoix.

MR. DARROW: You mean on the other side of the street?

Q On the southwest corner. Your attention was not attracted to any people there in the vicinity of the apartment house?

A No.

Q Was your attention attracted to any people in the vicinity of the school, on the other corner, across Garland?

A No, sir.

Q Did you see any people in the immediate vicinity of the Sweet house on the other corner?

A No, sir.

Q Except the police officers that you have already mentioned?

A That is all.

Q Did you see any persons on the other corner over by the store?

A No, sir.

Q Did you know anything about the Sweet house before you

came there that evening?

A I did not.

Q I believe you said that your attention was attracted solely by the police officers stationed around?

A Yes, sir.

Q Now, how many shots did you hear?

A Oh, I guess about a dozen.

Q Did you see any firing?

A No, I did not.

Q You saw no flashes?

A No, sir.

Q Were those shots fired in rapid succession, or was there an interval between?

A Rapid.

Q Fired together in rapid succession?

A Well, it sounded like they were right after each other.

Q Well, that is what I mean. Where were you now at the time of the shooting?

A I was right in front of the door of the schoolhouse on Garland.

Q On Garland?

A Yes, sir.

Q That would be how far from Charlevoix would you say?

A Oh, I judge about fifty or seventy-five feet.

Q How far is the door of the schoolhouse from the sidewalk on Garland?

A How far was the door of the schoolhouse?

Q Yes. Is it back from the sidewalk?

A It was, but I was on the sidewalk.

Q Were you standing there alone?

A Well, I guess there was others there, but I was not talking to anybody at the time.

Q You were with no one at the time?

A No, sir.

Q About how many other people were there, if you know?

MR. DARROW: You mean where he was standing?

Q Yes.

A Oh, fifteen or twenty.

Q Fifteen or twenty?

A Yes, sir.

Q Did you see anyone in that group who were armed?

A No, I did not.

Q Did you hear any threats made by people around there?

A No, sir.

Q Did you see anything thrown in the direction of the Sweet house?

A I did not.

Q Did you see any disturbance in the neighborhood while you were there that evening?

A No, sir.

MR. MOLL: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Where did you start out from that night?

A I started out from the house.

Q That was 2119 Harding Avenue?

A That is it.

Q That runs the same way, parallel with Garland, does it?

A Yes, sir.

Q And is how far from it?

A Well, it is two blocks -- about four blocks.

Q Two blocks which way?

A Two blocks south and two blocks east.

Q Where were you going?

A To a friend's house.

Q What?

A To a friend's house on Garland.

Q What house?

A To a friend's house on Garland.

Q Whereabouts?

A Between Goethe and Charlevoix.

Q Between what?

A Between Goethe and Charlevoix.

Q On Garland?

A Yes, sir.

Q Do you mind telling me what is your friend's name?

A Ethier.

Q When you got up to the first street you had to go around, didn't you?

A How do you mean?

Q When you started out from your house, where did you drive first?

A I drove by St. Clair.

Q How far?

A I drove up St. Clair to Goethe, and from Goethe to Garland.

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Q From Goethe to where?

A Garland.

Q And then where?

A I stopped at the fellow's house.

Q Did you see any traffic policeman there?

A I did not.

Q Was it light or dark?

A Light.

Q How long did you stop at your friend's house?

A About ten minutes.

Q He was at home, was he?

A No, he was not.

Q Did you leave your automobile, or have it with you all the time?

A I had it with me all the time.

Q And then where did you drive?

A I drove down Garland.

Q To where?

A I drove down to Charlevoix and I saw the officers there, and I drove across Charlevoix on Garland and stopped.

Q You stopped about seventy-five feet south of Charlevoix on the east side of Garland, or the west side?

A I stopped on the west side between the apartment house, and the house next door.

Q There were about ten or fifteen people around you, you say?

A No, there was nobody there when I stopped.

Q How soon after you stopped before they did get there?

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A Well, I got out of the car and went over on the other side of the street and there was twenty there.

Q How close to you?

A They were standing around me.

Q How near you?

A Oh, five feet.

Q Within five feet?

A Yes, sir.

Q Did you see whether there was anybody across in front of the apartment house where you had left your car?

A No, I did not.

Q You would not say there were no people there, would you?

A No, I would not say because I do not know.

Q You just do not know?

A No, sir.

Q You would not say that there were people north of you around the store?

A No.

Q You would not say that there were no people anywhere, or that they were not except the ones right around you?

A There were some on Charlevoix by the schoolhouse.

Q Have you any idea of about how many there were there?

A No, I have not.

Q You just saw people there?

A Yes, sir.

Q You don't know what there were up north of Charlevoix?

A I do not.

Q You did not pay any attention to that?

- A No, sir.
- Q You heard the shooting, and it all seemed to be about the same time?
- A It was one right after each other.
- Q Just a few seconds, I suppose?
- A Yes, sir.
- Q You would not pretend to say how much shooting you heard?
- A Oh, I presume about a dozen shots.
- Q That would be the best of your opinion anyway?
- A Yes, sir.
- Q Were you subpoenaed?
- A Yes, sir.
- Q When?
- A What did you say?
- Q When?
- A When?
- QQ Yes.
- A Last Tuesday night.
- Q Do you know how they got your name?
- A I do not.
- Q You have not the slightest idea about it?
- A No, sir, I have not.
- Q Anybody come to see you?
- A No, sir.
- Q That is all.

MR. MOLL: That is all.

(Witness excused.)

H A R R Y M O N E T, a witness called
on behalf of the People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q Where do you live, Mr. Monet?

A 2973 Garland.

Q That is on which side of the street, please?

A West.

Q Between what streets?

A Goethe and Charlevoix.

Q How are you in the same block with the Sweet house?

A Yes, sir.

Q And on the same side of the street, are you?

A Yes, sir.

Q How many doors north of the Sweet house, are you?

A Twelve.

Q That is about midway in the block, is it?

A Not quite; almost.

Q That is quite a long block, isn't it?

A Yes, sir.

Q About how long would you say in feet, if you could give
us an estimate?

A Oh, maybe 600.

Q It might be more than that?

A It might be more.

MR. DARROW: Do you know about what those lots
are?

MR. TOMS: That block is 1094 feet, from the center of one street to the center of the next.

Q Were you at home on the evening of September 9 of this year?

A Yes, sir.

Q Did you see any of the shooting on that evening?

A I heard the shooting.

Q Where were you at the time?

A At home; in front of my house.

Q Were you outside or inside?

A Outside on the sidewalk.

Q You were outside on the sidewalk?

A Right in front of my house.

Q Could you trace the direction of these shots, I mean, where they came from?

A They came from south of my house, on the corner, I judge.

Q How many shots did you hear?

A About fifteen.

Q Fired in rapid succession, or with an interval between?

A Well, the first seven or eight were in rapid succession, and the rest were a little bit slower.

Q Was there any period of time after the first seven or eight shots before the other shots were fired?

A Oh, there might have been ten seconds or fifteen, I judge.

Q I see. Did you go down in the direction of the Sweet house after the shooting?

A Not immediately after; maybe in a half an hour after I

went halfway down.

Q You did not run right down there to see what was going on, did you?

A No, sir.

Q Had you been down there earlier in the evening, or had you passed there earlier in the day?

A I passed there every day.

Q Coming from your work?

A Coming from my work and going to my work.

Q ~~Had~~ ~~xxxx~~ you passed there that evening?

A That afternoon.

Q About what time?

A Around 3:30.

Q Did you see any people congregated around the house at that time?

A Not at that time.

Q Did you see any persons in the vicinity of the house?

A Oh, there were a few, a few policemen, and there might have been a few passersby, that is all.

Q Your attention was not attracted to anybody except the policemen, is that right?

A That is all.

Q Just before the shooting on that evening, how long had you been out in front of your house?

A Just about a half a minute.

Q Did you look in the direction of the Sweet house when you came out?

A Yes, sir.

Q Did you see any persons on that side of the street?

A Well, there were a few police officers, that is all.

Q Were there any other passers-by on the sidewalk, or congregated any place on that side of the street?

A No.

Q Were there any people on the other side of the street?

A There were a few.

Q What were they doing?

A Why, they were just walking back and forth.

Q In the neighborhood of your house, or nearer Charlevoix?

A They were a little nearer Charlevoix?

Q Could you tell from where you were whether or not there were any policemen there?

A No, I don't believe I could.

Q You said in response to my question as to the number of people on the other side of the street that there were a few. About how many would you say there were on the other side of the street between where your house was and Charlevoix?

A Oh, about twenty or twenty-five.

Q Did you see any disturbance of any kind?

A I did not see any.

Q Did you see anyone in that vicinity who was armed, on the street?

A I did not.

Q Did you see anything thrown at the Sweet house?

A I did not.

MR. MOLL: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q How long have you lived where you are?

A Eight years.

Q Did you ever hear of the Waterworks Improvement Company?

A Yes, sir.

MR. FRIEDMAN: Association.

Q Association.

A Yes, sir.

Q When did you hear of that?

A Why, I judge it was about the first of September, August or September, I don't know which.

Q When did you first hear that colored people were moving into your neighborhood?

A It might have been about the same time, the first of September.

Q Did you ever attend any meetings of the Waterworks Improvement Association?

A Yes, sir.

Q Are you a member?

A Yes, sir.

Q Where did you join, at the meeting?

A I paid my dues at home. A man came down. I made out my application at the meeting, but I did not pay there.

Q That was around the first of September, or a little before that?

A It might have been a little before.

Q Who came to get to you to join?

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A Who came?

Q And asked you to join, yes?

A At one of the meetings, anybody who wanted to join could sign their name, and that is where I signed.

Q What?

A I signed my name at one of the meetings.

Q Whereabouts was it held?

A At the school.

Q How many people were present?

A Oh, about 500 I guess.

Q Anybody make a speech?

A One man.

Q What schoolhouse was it in?

A The Howe School.

Q Where was it?

A The corner of Garland and Charlevoix.

Q What room was it in there?

A There were so many that they could not hold it inside, and they met outside.

Q Outside on the lawn, wasn't it?

A Outside in the yard.

THE COURT: Can you fix the date, Mr. Darrow?

Q Was there any public notice of that meeting?

MR. MOLL: I object to that as immaterial.

THE COURT: The objection is overruled.

Will you fix the date of the meeting, Mr. Darrow?

Q Cannot you tell us the date of that meeting?

A I do not believe I ~~cannot~~ can of that one; no, I cannot.

Q You think it was around the first of September, though, do you?

A Between that and the middle of August, yes, sir, I think so.

Q Do you know how it was called?

X X MR. MOLL: That is objected to as immaterial.

THE COURT: The objection is overruled.

Q Do you know, tell us that?

A I have just forgotten whether - -

Q How did you get there, just by accident?

A No, I believe somebody notified me.

Q Do you know who notified you?

A No, I do not.

Q Do you remember the name of anybody that was there?

A A few, yes, sir.

Q How many?

MR. MOLL: If the court please, I desire to register an objection to this entire line of questioning, for the reason first that it is immaterial; second it is too remote; third, it has no probative value. I do not see how this would be material either as affecting the credibility or the interest of the witness, or bearing on the intent with which this alleged act was committed.

THE COURT: I do not know what the defense is in this case.

MR. MOLL: I am now registering my objection with reference to matters that led up to these meetings. I suppose whether or not a meeting was held is more or less important, but what led up to it, and how it was called,

how it happened to be called, I think is immaterial, and is taken subject to my objection.

MR. DARROW: The purpose of it and what happened there and what was discussed I think is part of the history of this case.

MR. MOLL: Of course, my contention is that it has nothing to do with the commission of this offense on the 9th, not bearing on it.

MR. DARROW: Our contention is that it was gotten up for the purpose of driving these people out of the neighborhood, preventing their coming.

THE COURT: That is what I thought. While I cannot anticipate the defense in this case, I can see how it might be material.

MR. MOLL: If the court please, I want to take exception to the remark of counsel as to what he thinks was the purpose of this organization. It is highly prejudicial. There is no testimony before this jury as to the purpose of it.

THE COURT: That remark may be stricken out.

MR. DARROW: Your Honor, there is considerable testimony before this jury as to the purpose of it, and --

MR. MOLL: There has been some guesswork here as to what the purpose was, and we are ready to show it.

MR. DARROW: We will ask you to show it then.

MR. MOLL: All right. We will show it.

MR. DARROW: You gave me certain literature last night. Let us put it in here at this time.

MR. MOLL: There is the purpose of it right there, so far as we know.

MR. TOMS: This is the proposed constitution and by-laws.

MR. NELSON: Were they adopted?

MR. TOMS: I do not know.

MR. DARROW: I will pass to the reporter a document or a card and ask to have it marked.

(A card was marked Defendants' Exhibit No.11.)

MR. DARROW: I present another document and ask to have it marked Defendants' Exhibit No. 12.

(A book was marked Defendants' Exhibit No.12.)

Q Do you know who notified you to go there?

A No, I do not. I have forgotten.

Q Do you know whether there was any public announcement made of this meeting?

A I do not believe there was.

Q Do you know who was the chairman?

A Yes, sir.

Q Who?

A A man by the name of McGlynn.

Q Do you know where he lives?

A Yes, sir.

Q Where?

A He lives on Garland, but I do not know his number.

Q Did anybody speak at that meeting?

A One man that I know of.

Q Who?

A I don't know him.

MR. MOLL: I object to that as immaterial. I withdraw the objection.

Q Was there anything said about colored people moving in the neighborhood?

MR. MOLL: I object to that as hearsay.

THE COURT: He may answer it yes or no.

A Yes, sir.

Q Was that by the speaker whom you mentioned?

A I do not think so.

Q Was there somebody else spoke besides him?

A Just the chairman. He introduced the speaker.

Q Was it said by the chairman?

A I do not think so.

Q Do you know who said it?

A Yes. You could hear the talk on the outside, that is all.

Q It was discussed on the outside?

A Yes, sir.

MR. TOMS: By the way, do you offer Exhibits 11 and 12?

MR. DARROW: I will in just a minute. I thought I would get a little further along with this examination.

MR. TOMS: Do you propose to offer them?

MR. DARROW: Yes, I propose to offer 11. I have not read 12. Yes, we offer the book.

MR. MOLL: No objection.

Q Did you discuss it?

A Oh, I suppose I did, yes, sir.

Q You own your property?

A Yes, sir.

Q You did not want colored people to come there?

A Yes, sir.

Q That was the reason you joined the association, wasn't it?

A Yes, sir.

Q And the association, so far as you heard it from the people around there, was called for that purpose, wasn't it?

A Yes, sir.

MR. MOLL: You mean the meeting of the association?

Q The association was formed for what, wasn't it?

A Yes, sir.

MR. MOLL: I think Exhibit 11 which sets forth the purposes of this association, and which Mr. Darrow has offered in evidence is the best evidence.

THE COURT: It is the best evidence, that he has testified that he was a member of the association, and is a member, and can testify to its purposes.

MR. MOLL: Becoming a member would not necessarily give him knowledge as to what the association was formed for.

THE COURT: If his testimony should be inaccurate about it, or loose, I will strike it from the record.

MR. DARROW: Your Honor knows that the bylaws and the membership card do not necessarily say what an organization is for.

THE COURT: He may state its purpose.

MR. DARROW: I know a great many organizations that have about the same by-laws and rules, but very different

objects.

Q That was your purpose in joining it, wasn't it?

A Yes, sir.

Q Do you know of any other purpose for that association?

A Not that I know of, no.

Q Do you know who was the organizer of that association in your district?

A No, I do not.

MR. MOLL: I object to that as immaterial.

THE COURT: Objection overruled.

Q You do not know who was the president?

A I know who is the chairman.

Q You don't know whether he is the president of it or not?

A No, I do not.

Q Were you appointed a member of any committee there?

A No, sir.

MR. DARROW: Now, I will introduce Exhibit 11. You are familiar with it.

MR. MOLL: No objection.

THE COURT: It will be received.

MR. DARROW: I will read it to your honor. It says "Application card, Waterworks Improvement Association.

"As a property owner I or we apply for membership in the Waterworks Improvement Association. If accepted I or we agree to support the constitution and by-laws of the Association and its further enactments for the benefit of this community."

There is a blank line for the husband's full name,

and a line for the wife's full name. Address, business address. Dated: Single dwelling; duplex; apartment house; so that you can mark either one.

On the other side: "Proposed objects of the Association."

"First. The objects of this association shall be to organize the property owners of the community north of Waterworks Park, and bounded by Mack, Harding, Jefferson and Cadillac Avenues for the purpose of"

"(A) Rendering constructive civic and social service to the community.

"(B) Assisting to maintain a clean and healthy condition in our streets and alleys.

"(C) Observing and reporting the traffic ordinances, particularly the speed laws, that greater safety and protection may be created around our families, especially the children.

"(d) Co-operating with the city departments in all plans which will be beneficial to this particular community and an improvement to the neighborhood, or to the whole municipality.

"(e) Co-operating with the police department, that the rule of "law and order" shall be maintained and our homes and streets made safe for the residents and the public at large.

"(f) Co-operating in the enforcement of the present property restrictions and ordinances; and originating and supporting other restrictions which may be deemed

necessary to conserve this particular locality that it remain a desirable community and property owners may continue to dwell in peace, security and harmony."

Q You signed one of these cards, didn't you?

A Yes, sir.

Q You are familiar with what it says?

A Yes, sir.

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MR. DARROW: The objects are stated in the constitution, are they?

MR. TOMS: Exactly, and the rules of procedure.

MR. DARROW: Is there any special reason for reading it?

MR. TOMS: Not a bit. It is taken verbatim in the book.

MR. DARROW: May I say as to the constitution, the proposed constitution and by laws of the Water Works Improvement Association, it is verbatim as the card, to and including all on the card; and then beginning with Article 3, Membership on the second page and providing the procedure. And if either of us want to read those, we can.

THE COURT: Yes subsequently.

Q (By Mr. Darrow): Now, you people had discussed considerably the moving of colored people into your neighborhood, hadn't you?

MR. TOMS: Just a minute.

A Yes, sir.

MR. TOMS: What do you mean "you people?"

MR. DARROW: The neighbors.

MR. MOLL: Do you mean at the meeting, or some other time?

MR. FRIEDMAN: Both.

Q I have already asked about the meetings. It was discussed there, you said, didn't you?

A Yes, sir.

Q And it had been discussed generally in the neighborhood,

hadn't it?

MR. MOLL: I think I shall object to that if the Court please. It is too remote, and a general discussion which would not have any probative value.

THE COURT: He may answer.

MR. TOMS: I think the time and place should be fixed.

MR. DARROW: I said "in the neighborhood."

MR. MOLL: That covers some territory, and there is nothing about the time.

Q Well, that was after you heard about the colored family coming there, wasn't it?

A Yes, sir.

Q Now, on this night in question, you came down out of your house about how long before the shooting?

A About a minute, I judge.

Q And then what did you do?

A I stood there and looked up towards Charlevoix.

Q For a minute?

A Just about.

Q And then what did you do?

A I stood there.

Q After the minute was up?

A I heard the shooting and that is all.

Q What did you do after you heard the shooting?

A I stood there a little while and then I went back in the house.

Q Then, all you know about the number of people on the street

that night previous to the shooting, you got in a minute, didn't you?

A That is about all, yes sir.

Q How long had you been in the house, before?

A All evening.

Q From what time?

A Well, ever since I got home from work, at 3:30.

Q Now, in that minute that you stood there previous to the shooting, you could not pretend to say how many people were on the street between you and Charlevoix, and around the school house?

A Not around the school house, because the school house is on the other side of the street, on the other side of Charlevoix.

Q Yes. Was anybody around your house at that time?

A Not around my house, no, sir.

Q Where do you live with reference to the flat building that has been occupied by Mr. Dove and somebody else, just across the street, how far from it?

A I live about ten houses south from there.

Q Do you know where it is?

A Yes, sir.

Q Do you know whether there were people around it?

A I don't know whether there were or not.

Q It was dark, wasn't it, when you came down?

A Yes sir.

Q Do you know how many automobiles were parked, if any, around in that block?

A No, I do not.

Q You haven't any idea? You did not look, I suppose?

A I don't know.

Q And if you did, it has passed out of your mind?

A Yes.

Q You heard these shots, and you say they seemed to be practically together, or was there an interval?

A The first seven or eight were right together. Then there was an interval between the others.

Q How much of an interval?

A Maybe five or six seconds.

Q But ^{all} very quick?

A All very quick.

Q And how many do you think there were altogether?

A About 15 shots.

Q Was there any special reason for your coming down to the yard a minute before the shooting?

A There was no special reason. I just thought I would look up towards Charlevoix and see what was doing, that is all.

Q And see what was doing?

A Yes, sir.

Q Did you think anything was doing up there?

A No, I didn't think anything was doing, but I just thought

Q You thought there might be?

A Yes.

Q You have lived in that neighborhood how long?

A Eight years.

Q Do you know who lived in that house before Dr. Sweet moved

into it?

A I do not. There have been two or three parties in there, but I did not know either one of them.

Q You did not know their names, even?

A I heard one of the parties' names, that is all.

Q What?

A The party that sold to these colored people, that is all.

Q What was their name?

A I heard it was Mrs. Smith.

Q What?

A I heard it was Mrs. Smith, that is all.

Q Was there a Mr. Smith?

A Not that I know of.

Q You don't know whether there was or not?

A No, I do not.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. MOLL:

Q Now, I noticed, according to Exhibit J2, which is the proposed constitution and bylaws of the Water Works Improvement Association, that all owners of property on Cadillac, Hurlbut, Bewick, Garland, St. Clair, Harding, the south side of Mack, the north side of Jefferson Avenue, between Cadillac and Harding Avenues, are eligible to membership in the Association. Is that your understanding?

A Yes.

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Q And did you join the organization as a property owner?

A I did.

Q Now, you have described this meeting at the school, which was too large to be accommodated in the school, and which you think was between the middle of August and the first of September. Was that an open meeting?

A That was an open meeting.

Q Did you have to present any membership identification to be present?

A I did not.

Q And it was held in the open?

A Yes, sir.

Q Was that the only meeting that you attended?

A I attended one more.

Q When was that?

A That was before that one. I don't know the date.

Q Where was that, do you remember?

A In a garage back of my house.

Q And how long before the school meeting was the garage meeting?

A I couldn't just exactly say how long.

Q Well, approximately, was it a matter of weeks or days, or a month or so?

A I judge around two weeks before.

Q And those were the only two meetings that you attended?

A Those were the only two.

Q And that was the extent of your participation in this Association?

7
 A Yes, sir.

Q What did you say your purpose was in joining this Association?

MR. DARROW: He has already stated.

MR. MOLL: Well, let us clarify it. I don't know as I understood his answer.

A Well, to keep the neighborhood in the same high standard as it always has been. That is one. That is the reason.

Q Your interest was in your property, is that right?

A That is it, yes, sir.

MR. MOLL: I think that is all.

RECROSS EXAMINATION

BY MR. DARROW:

Q You stated to me that your purpose in joining was to keep colored people out of the neighborhood, didn't you? What?

A Yes, sir.

Q That is what you mean by keeping it the same high standard?

A Yes, sir.

Q Just for white people?

A What is it?

Q Just to keep it for white people?

A Yes, sir.

Q And that was largely through your interest in your own property?

A Yes, sir.

MR. DARROW: That is all.

MR. MOLL: That is all.

(Witness excused)

E D W A R D J. B E L C H E R, was thereupon called as a witness on behalf of the Prosecution, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q Your full name, sir?

A Edward J. Belcher.

Q Where do you live, Mr. Belcher?

A 2633 Garland.

Q On which side of the street, is that, Mr. Belcher?

A On the west side of Garland.

Q And between what streets, please?

A The southwest corner of Charlevoix and Garland.

Q You live in an apartment, do you?

A No, sir.

Q How far from the apartment?

A The next house to it.

Q You are one house south of the apartment?

A Yea, sir.

Q By the way, how far is your house from Charlevoix? How much space does the apartment occupy on Garland?

A The apartment house?

Q Yes, what is the frontage on Garland?

A I should judge about, maybe 50 feet.

Q How long have you lived there?

A Two years and a half I guess.

Q Do you own your property?

A No, sir.

Q You rent?

A Yes, sir.

Q Were you at home on the evening of September 9th this year?

A Yes, sir.

Q What time did you come home on that evening?

A Around five o'clock or after five, shortly after.

Q From your work?

A From my work.

Q What is your business, please?

A Telephone work.

Q Were you outside after you returned from work, after you came home?

A After supper, yes.

Q About what time did you get back?

A Oh, around 8 o'clock.

Q Around 8?

A Yes, sir.

Q Did you go out alone?

A Yes.

Q What was your purpose in going out, if you had any purpose?

A I went up to the corner. My wife had been out making a sick call, and I was watching the cars that passed, to see when she came so that I could walk to the corner of Bewick to meet her.

MR. DARROW: Read the answer.

(The answer was read by the Reporter)

Q You were there waiting for your wife?

A Yes, sir.

Q And how long did you wait for her on the corner?

A Oh, I should judge pretty near an hour I guess.

Q Could you see the Sweet home from where you were?

A Yes, sir.

Q Was there anything that attracted your attention to the Sweet house?

A Nothing at all.

Q Did you see any uniformed police officers around the house?

A Yes, sir.

Q Did you see any other persons congregate around the house or in the vicinity of the house?

A Well, I should judge about 50 or 60 people was around, towards the school there.

Q Well, now, just where were you standing, while you waited for your wife?

A Right at the property belonging to the flat, right on the line.

Q That would be the southwest corner?

A The southwest corner.

Q Were there any persons right around you, right on that corner?

A There was either one or two officers there.

Q Any people who lived in the flat around you?

A There was some sitting on the front steps, I guess, on the Charlevoix side.

Q Was there any crowd there?

A No, sir.

Q The people who lived there were sitting on the steps?

A Yes, sir.

MR. DARROW: That is on Charlevoix?

MR. MOLL: On Charlevoix.

Q Did you see any persons around the corner on Garland?

A Well, there might have been a few.

Q I mean now on the same side as the apartment?

A They was all over towards the school.

Q You say there were about 50 or 60 people in the neighborhood of the school?

A Yes.

Q That school covers how much property, in ground, the school and yard?

A One block one way and a half a block the other way.

Q Is there grass in front?

A Grass in front. A playground at the back.

Q A lawn is there?

A A lawn.

Q Do you know where the store is diagonally across the corner from where you were?

A Yes.

Q Did you see any people congregated there?

A Two or three, I guess and a couple of officers over there.

Q Could you look up Garland Avenue to the north?

A Beg pardon.

Q Could you look up Garland Avenue to the north?

A No, I couldn't see up there. It was dark.

Q But you could see around the intersection, on Garland?

A Yes, sir.

Q But you saw no crowd?

A No crowd.

Q Did you see any shooting, or hear the shooting that took place?

A Yes; it was between 8 and 8:15, or 8 and 8:30, the shooting started.

Q Could you see or hear where the shooting came from?

A It came from the Charlevoix side, the south side of that building.

Q From which floor?

3 A The second floor.

Q Did you see the flashes?

A Yes, sir.

Q Or the flame from guns?

A Yes, sir.

Q Can you tell us how many shots were fired from that side of the house?

A I couldn't. I didn't watch, to count them.

Q Did you see any fire from the front of the house?

A No, sir, I didn't, not from the front.

Q About how many shots would you say were fired altogether?

A I couldn't begin to tell you.

Q Approximately, could you?

A Well, there might have been eight or nine, maybe more, but I didn't count them.

Q Can you tell us how they were fired?

A Well, I think the first volley - they all came practically

together.

Q Was there more than one volley?

A Yes, sir.

Q How many volleys were there?

A Well, the first volley was fired while I was there, and there was another volley fired afterwards, after I had left.

Q I presume you went around the corner pretty fast, did you?

A I didn't want to wait any longer.

Q When you describe the eight or nine shots, they are the shots that made up the first volley?

A About that.

Q And you were in no position to count the second volley?

A No, sir, I didn't want to stay any longer.

Q But you do know, however, that there was some shooting after you left the corner?

A After I left the corner.

Q On your way home?

A Yes, sir.

Q (By Mr. Darrow): Nothing that overtook you, though?

A No.

Q (By Mr. Moll): You did not feel any draft?

A I might have worn the grass out, beating it.

Q About how much space of time was there between the first volley and the later shots?

A Oh, there might have been maybe five seconds.

Q You did not quite get home by that time?

A I might have got home, no more than that.

Q Now, Mr. Belcher, while you stood on the corner, did you

see anything thrown at the Sweet house?

A No, sir.

Q Did you see any disturbance?

A None whatever.

Q Did you see any crowd of people congregate in any particular spot?

A No, sir.

Q Did you see any violence of any kind?

A No, sir.

Q Or disorder?

A No, sir.

Q Any shouting?

A No, sir.

Q Or yelling?

A Everything was in peace and quietness.

Q Did anyone talk to you while you stood on the corner?

A Why, nobody spoke to me personally, but I passed a remark to an officer, I said how quiet it was, that was all; that was the only remarks which were passed between us.

MR. MOLL: I think that is all.

THE COURT: We will take a short recess, gentlemen.

(R E C E S S)

CROSS EXAMINATION

BY MR. DARROW:

Q You told the officer it was awful quiet?

A Yes, sir.

Q Mr. Belcher, how long had you lived in that neighborhood?

A About two or two and one half years.

Q What?

A About two and one half years.

MR. FRIEDMAN: I can't hear. Will you keep your voice up?

A All right.

Q And you are in the telephone business?

A Yes, sir.

Q In what way?

A Telephone repair man.

Q You are an old time resident of Detroit?

A Yes, sir.

Q How many years?

A About 29 or 30 I guess.

Q Where were you born?

A I was born in England.

Q Are you a member of the Water Works Improvement Association?

A No, sir.

Q Were you present at that meeting that they held out on the lawn?

A No, sir.

Q Where were you that night?

A I was not out of the house - that is, the meeting of the Water Works?

Q Yes.

A No, sir, I was not at any of their meetings at all.

Q You live right across from the school house, don't you?

A Yes sir.

Q Do you know a man by the name of Draper, who is a neighbor

of yours?

A Next door neighbor.

Q Are you pretty well acquainted with him.

A Just to pass the time of day when I see him.

Q How long have you been a neighbor of his?

A Since I have lived in that vicinity.

Q You got on the corner there, outside, about what time?

A Between 8 and 8:30, - about eight o'clock I guess, when I first went out there and I stayed there until about 8:30 I guess.

Q And you had been watching for your wife on the street car?

A I was standing, watching the cars passing on the corner, so that I could walk down to Bewick to meet her.

Q What time did she leave home?

A Right after supper.

Q And you waited there on the corner for an hour. You must have thought she was going to dress down there?

A It was an hour altogether, after the shooting and everything. It was about a half an hour after the shooting, that she came home.

Q You told counsel on your direct examination that you waited for her on the corner for an hour?

A He said, how long did I wait for her; and I said about an hour altogether, about one hour.

Q Waiting for her.

A Yes, sir.

Q On what corner?

A The southwest corner of Charlevoix and Garland.

Q You were really there waiting for your wife?

A Yes sir.

Q I trust she finally came?

A She did.

Q Well, what time did she get around?

A Oh, I should judge around 9 o'clock, a little after, maybe.

Q You must have got -

A A short time after.

Q You must have got kind of impatient, waiting an hour for your wife?

A I think anybody would do the same thing, if they were waiting for their wife.

Q They would get impatient?

A Not impatient, but they would be satisfied to wait for her.

Q That was your frame of mind?

A Yes, sir.

Q Was that the nearest corner that the street car went to your home?

A The stop is on the next street; that is the nearest stop.

Q How close was that to your home?

A I beg pardon.

Q How close was that corner to your home?

A How close is the car stop?

Q Yes.

A The next block, the next street over.

- Q You always go to the corner to wait for your wife?
- A As a rule, sometimes when she goes to the Lodge where she belongs.
- Q When she comes home in a street car, you are always there to meet her?
- A Pretty nearly, or I will sit up until she comes.
- Q Do you go down on the corner and wait an hour for your wife to come whenever she comes home on the street car?
- A When I think it is about time for her to be home, I will go out and wait two or three cars, and then go back, and then I will go back a second time.
- Q But you did not do that this time?
- A No.
- Q There must have been several cars passed?
- A Yes, quite a few.
- Q Now, Mr. Beldner, the reason you stuck around the corner for an hour was that you were waiting for your wife?
- A Yes, sir.
- Q You had no other reason?
- A No, sir.
- Q You did not know that the Sweet family had moved into that house, I suppose?
- A Oh, yes, sir.
- Q You did not know they were colored people?
- A Yes, I knew they were colored, because that afternoon I seen one of them sitting on the front porch.
- Q You could tell by looking at him that he was colored?
- A Yes, sir.

- Q What were you doing there that afternoon, waiting for your wife then?
- A No, sir, I just came home for dinner then.
- Q Was that the first time you had heard about the Sweets moving in there?
- A No, I heard that they were going to move in, but I did not know when.
- Q How long had you heard they were going to move in there?
- A Maybe a week.
- Q Maybe a month?
- A Maybe - I do not - the first I heard about it was about a week, I guess.
- Q You saw the policemen around there?
- A Yes, sir.
- Q Had that anything to do with your waiting for your wife an hour?
- A No, sir.
- Q You knew that your wife would be safe with all of those policemen on the corner, didn't you?
- A She might have been.
- Q Or did that make you fear more?
- A I beg your pardon?
- Q That did not give you any additional worry about her?
- A No; it did not give me no worry at all.
- Q Did you know what the policemen were doing there?
- A No, sir, I did not.
- Q You had not the slightest idea?
- A No, sir.

Q Are you telling me just as it is?

A Just a minute. What was that statement that you said?

Q Are you telling me just as it is?

A Did you ask me what the policemen were doing there?

Q I asked you if you knew why they were there?

A I knew they were to guard Mr. Sweet's house.

Q Well, that is the reason I asked you the last question, because you evidently did not understand the other one. Now, you saw about 50 or 60 people on the school house corner while you were waiting?

A About that.

Q You did not count them?

A No, sir. I did not count any of them. I just gave it a rough estimate.

Q Were they waiting for their wives too?

A I don't know.

Q You did not ask them did you?

A No, I did not go over there to ask them.

Q You did not have any curiosity about it at all, did you?

A No.

Q Was there anybody along the street where you lived?

A Standing around, you mean?

Q Yes, standing around.

A Oh, there might have been two or three.

Q Well, was there?

A Passing up and down.

Q Was there?

A Well, there might have been two or three passing up and down

there.

Q Do you remember that there were?

A Well, yes, I guess there was.

Q Come to think it over, you think there were?

A Yes, two or three.

Q Which was it, two or three?

A Well, I will say three anyway.

Q You are perfectly safe if you say three, aren't you?

You think there were not more than three?

A I donot think so.

Q Do you remember who they were?

A No, sir, I do not.

Q Did you know any of them?

A No, sir.

Q Strangers to you?

A Yes, sir.

Q What were they doing, just walking up and down?

A Walking up and down.

Q You did not ask them what their business was?

A It was none of my business.

Q Did you see Mr. Draper walking up and down?

A No, sir.

Q He was not there?

A. I did not see him there

Q Would you have seen him if he had been there? Wouldn't you?

A I sure would.

Q So you know he was not there?

A He was not there.

Q He was not patrolling that block there while you were waiting for your wife?

A No, sir.

Q Did you see his boy there?

A I beg your pardon?

Q Do you know Draper's boy?

A Yes, sir.

Q About 16 years old?

A Yes, sir.

Q Was he there?

A I think he was; I think he was sitting on the steps talking to my boy.

Q What?

A I think he was sitting on the front steps talking to my boy.

Q Was he walking up and down too?

A No, he was sitting down.

Q Was he sitting all the time?

A Well, when I saw him he was sitting down.

Q How long was he there if you know?

A Oh, until way after the shooting, I guess.

Q Did you see any other boy about the same age, 16 or 17?

A No.

Q There was nobody there then of that description?

A No, sir.

Q You did not see anybody else that you knew on that side of the street?

A No, sir.

Q Did you see anybody around on the Charlevoix side of those apartments?

A People were sitting on the front steps of their apartment.

Q How many were sitting there?

A I didnot count them.

Q You did not count them?

A No, sir.

Q It would not have taken you long, would it?

A It would have if I had counted them all. I could have counted them all.

Q You were afraid you would miss a car if you walked up there?

A Maybe.

Q You just knew that there was people there; you could not see very far north of Garland Avenue, could you?

A No, sir.

Q So you don't know what or who might have been up there?

A No, sir.

Q Didyou see any automobiles parked around there?

A I think there was oneor two. One belonged to the grocery man and I think there was a coupe over there.

Q You knew that the grocer had an automobile?

A Yes, sir.

Q Or was it a Ford, which?

A It was a Ford.

Q You had heard about that machine?

A Yes, sir.

Q Nobody else in the neighborhood had a machine, did they, of any kind?

A Not parked there that I know of.

Q Well, he was the only man that owned a machine so far as you know, wasn't he?

A That I know of, yes.

Q That may account for everybody remembering the grocer's Ford, might it not?

A The grocer's car was a touring car which was standing there.

Q It was a Ford all the same?

A A Ford, yes, sir.

Q And it belonged to the grocer?

A Yes, sir.

Q Were there any other cars parked around there?

A I think there was a Ford sedan or a Ford coupe, but I would not be sure which.

Q Besides the grocer's?

A Besides the grocer's, yes.

Q Were there any more cars parked there?

A That is all I seen.

Q Are you sure there were not any more?

A That is all I saw.

Q Were there any cars parked further up on Garland?

A I could not see.

Q You don't know anything about the territory up that way?

A Well, I could not see at that time; it was dark.

Q You could see the Ford car on the corner?

A That was on the north side, yes, sir.

Q That was about the end of your vision at that time, because it was dark?

A It was dark, but I could see that car there. I think there were two cars in front of the store.

Q How many policemen were around there?

A Oh, there was two on the corner I was standing on, and I think there was two on each corner, and some patrolling around.

Q Did you see them doing anything?

A Going backward and forwards.

Q Anything but walking up and down or around?

A That is all they were doing.

Q You did not see them speak to anybody?

A No.

Q Going up to anybody?

A No, sir.

Q How long did those two policemen stand on the corner?

A Oh, they were walking up and down. They would walk up and down.

Q You spoke to one of them?

A I spoke to one of them, yes.

Q You said it was a very quiet evening?

A Yes, sir.

Q It was especially quiet, wasn't it?

A It was quiet.

Q Were you surprised at the quietness of it?

A No, sir, I was not surprised at all.

Q Had you ever made that remark to anybody before, that it was a quiet evening?

A No, sir, but I made it that night.

Q You did not say that it was a hot evening?

A Well, it was not cold.

Q You did not make any remark about the weather; you just told the policeman that it was a quiet evening?

A Yes, sir.

Q He agreed with you, I suppose?

A He did.

Q Was that before the shooting or after?

A That was before the shooting.

Q You don't know just what those fifty or sixty people across the street were there for?

A No, I do not.

Q You did not hear a word spoken?

A I beg your pardon?

Q You did not hear a word spoken?

A No, I did not.

Q If they spoke, they must have whispered?

A I could not hear across the street, at the school.

Q They might have been talking?

A They might have been talking, yes, sir.

Q You did not hear the people who were out on the porch, and walking up and down in front of you, in front of your place, you did not hear them speak?

A No, sir.

Q No idea what they were doing or why they were out?

A I had no idea what they were doing at all.

Q You say there wasn't anybody around the grocery store?

A I say the officers were standing over there.

1. 2. 3. 4. 5.

Q Nobody but officers?

A That is all I saw.

Q Did you see anybody go out and in of the grocery?

A Well, yes, sir, I saw those fellows go in and get groceries and they went home.

Q Do you know that they did?

A I did not follow them to see.

Q Do you know whether people went in and got groceries and came out?

A Yes, sir.

Q What?

A Yes, sir.

Q Do you know anything about it?

A I know they were in there.

Q How many?

A I could not say.

Q There were people around there?

A Yes, sir.

Q Could you see what they carried home with them?

A No.

Q Do you know who they were?

A No,

Q You don't know whether they went home then?

A No. They walked up Garland Avenue; they came out of the store and walked up Garland Avenue. That is all I know.

Q All you know is that the people went in and out of the grocery store?

A Yes, sir.

- Q You don't ^{know} how many?
- A No, sir.
- Q They went right in and came right out again?
- A Yes, they bought whatever they wanted to purchase and went home, I suppose.
- Q You did not see them buying anything at all?
- A No, I seen them come out with packages under their arms.
- Q You say that all of them had packages?
- A Some of them had a bag in their hands, and I think some had a loaf of bread, for all I know.
- Q What kind of a bag?
- A A brown paper bag.
- Q You could not tell what was in it?
- A No, sir.
- Q All had packages when they came out?
- A Packages, yes, sir.
- Q Nobody came out without a package, is that right?
- A That is right.
- Q Did you ever watch that grocery before or since?
- A Well, I cannot say that I have.
- Q By the way, what time did your wife get home?
- A Shortly after 9 o'clock.
- Q You got her safely into the house?
- A Yes, sir.
- Q That is all.

MR. MOLL: That is all.

(Witness excused).

T H O M A S B E L C H E R, was thereupon called as a witness on behalf of the People herein, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q You are Thomas Belcher?

A Yes, sir.

Q I understand that you live with your parents on Garland Avenue?

A Yes, sir.

Q Just south of the apartment house which is on the corner of Garland and Charlevoix?

A Yes, sir.

Q Were you in that neighborhood on the night of the 9th of September of this year?

A Yes, sir.

Q Did you see or hear any shooting that occurred on that night?

A Yes, sir.

Q Did you see it or did you hear it?

A Both.

Q Where were you sitting or standing at the time of the shooting?

A Well, there is the apartment there, and there is a tree just east of the apartment between the sidewalk and the curb, and I was just north of that tree.

MR. DARROW: Where did he say the tree was?

Q I think he said it was just out east of the apartment, between the sidewalk and the curb?

MR. DARROW: Here is your apartment over here, isn't it?

A Yes, sir. It was about 15 feet south of the corner.

MR. TOMS: Right in here, wasn't it (indicating on the diagram)?

A Yes, sir.

MR. DARROW: Somewhere in there?

A Yes, sir.

Q You were standing on Garland Avenue then in the space between the sidewalk and the curb, and close to Charlevoix?

A Yes, sir.

Q Were you alone or were you with somebody?

A At the time I was walking towards my father who was standing on the corner. I was just past the tree in going there,

Q Was it dark at that time?

A Yes, sir.

1

Q How many shots would you say you heard?

A Why, I would imagine there was around fifteen.

Q Fired in one volley, or in more than one volley?

A They came in - - well, there was a short interval; there were several shots fired, and then there was a ^{very} short interval, and then another volley. It was really two volleys.

Q Could you see any of those shots?

A Yes, sir, I could see the flashes.

Q Where did the flashes come from?

A From the front windows in the upper part of the house; there ~~was~~ three or four little windows in the front, and also from the side.

Q You mean the Charlevoix Avenue side?

A The Charlevoix Avenue side, and the Garland side.

Q How many flashes did you see on the Garland side from the front windows?

A Well, I saw, oh, one or two. I did not stand there just watching it all the time.

Q How many did you see on the Charlevoix side?

A I could not say exactly. I know I saw one at least.

Q Then you left?

A Well, I ran back in the hedge between our place and the apartment, and I stood in back of there until the shots finished.

Q Had you been out or up in that vicinity before the shooting and before you started towards Charlevoix?

A No, sir. I have been in the vicinity, but in the house.

We had played the Victrola, because my younger cousin was over. I played the Victrola, and then I walked up to the corner.

Q As soon as you came out of the house you went towards Charlevoix and there you heard the shooting, and saw it, is that right?

A Yes, sir.

Q As you came out of the house and went to the corner, did you see any people congregated on the street?

A There was none congregated. The officers kept them moving. I believe they tried to make a sort of a dead-line between the two houses.

Q I am speaking now of before the shooting, and as you came out of the house?

A As soon as they passed our house and they started to stand around, the officers always sent them back.

Q Were the officers in the vicinity of that house?

A There was an officer on the corner, our corner of Garland.

Q Did you see that?

A Sir?

Q Did you see what happened? Are you telling us now what you saw after you left the house?

A Yes, this was - -

Q I want you to tell what you saw and what you know about what happened there. Did you see any people on the street as you came out of your house and went toward the corner?

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A There was a few groups, very small groups.

Q Where were they?

A They were all north of our place.

Q North, across Charlevoix?

A Well, there was a few across, and the others were on our side.

Q Did you see Dr. Sweet's house from where you were?

A Yes, sir.

Q Were there any people around his house except the police officers?

A Yes, sir, the police officers.

Q Did you see across the street where the store was?

A I could see where the store was, but I could not see north of the store. I could only see the store because of the lights in there.

Q Did you see any people around the store?

A I do not believe I did.

Q Or on the corner where your father was standing?

A No, I believe he was the only pedestrian there.

Q Did you hear any noise or see any disturbance?

A No, I didnot.

Q The first thing that you saw or heard was the shooting?

A Yes, sir.

MR. MOLL: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Are you still attending school or working?

A No, sir. I graduated from high school. I am working at the present time.

Q What?

A I am working at the present time.

Q What do you work at?

A I am working at drafting at the present time, for the Michigan Bell Telephone Company.

Q Have you any brothers?

A No, sir.

Q You live at home with your father and mother?

A Yes, sir.

Q You were in the house all the evening up to the time you came out just a little while before the shooting?

A No, I was not. I was in the house for about a half an hour, and before that I had been on the porch.

Q Let me get at this so that we will be sure. Your porch fronts on Garland?

A Yes, sir.

Q Is it a house or a flat?

A It is a two-family flat.

Q What?

A A two-family flat.

Q You live in the lower flat or the upper one?

A The lower.

Q There is a porch in front of it?

A Yes, sir.

Q Now, what time were you on the porch?

A I imagine, I will say it was between, up until about seven

thirty or a quarter to eight.

Q I did not get your first word there.

MR. MOLL: Up until.

A It was up until that time.

Q Up until seven thirty or a quarter to eight?

A Yes, sir.

Q Of course, you cannot be exact. You are just giving us your best judgment?

A Yes, sir.

Q When did you go out on the porch?

A Why, about a half an hour after my supper was over.

That was about a quarter to seven I imagine.

Q You went out at about a quarter to seven?

A Yes, sir.

Q Then you stayed there three quarters of an hour or thereabouts?

A Approximately, yes, sir.

Q Approximately?

A Yes, sir.

Q I don't mean to pin you down any closer?

A Approximately.

Q Anybody with you?

A I don't remember whether there was anybody on the porch with me or not. I was reading the paper. That is what I was doing.

Q By some light?

A There was plenty of light enough to read, at least part of the time I was there.

Q While you were there it was light?

A Yes, sir.

Q At least light enough for a boy of your age to read?

A Yes, sir. My eyes are quite good.

Q You don't remember if anybody was there or not?

A I could not say.

Q Was there anybody there at any time with you on the porch?

A I could not even say that. I could not answer.

Q If there were, you do not remember?

A That is it?

Q What?

A That is it. I don't remember it.

Q You knew there were policemen around there at that time?

A Yes, sir, I did.

Q And they were only letting people come up to a certain point?

A Well, they would let them go up, but they would not let them congregate there.

Q You saw them dispersing them or keeping them back, didn't you?

A Yes, sir.

Q What part of the evening was that, while you were sitting on the porch?

A That was - -

Q Well, whenever anybody would come up there they would send them back?

A If they would stand around the sidewalk any length of time at all.

Q That is what you called a dead-line?

A That is the way I worded it. I don't know whether you would call it that or not.

Q That was established before you came out?

A I don't know.

Q Well, you saw that as soon as you saw anything there, or didn't you?

A Well, it was quite noticeable.

Q They would come up to that point, and then the police would send them back, is that it?

A As I stated before, if they would stay there any length of time.

Q Over across on the school grounds there were people, weren't there?

A I do not know that.

Q Well, think of it a minute. Have you thought about it?

A I am quite sure that I don't know whether there was any in the school grounds. While I was sitting on the porch I never noticed anybody over there.

Q You did not pay any attention?

A No, I did not pay any attention to it.

Q You just paid attention to what was in front of you?

A Yes, sir.

Q You would not say yes or no to that question?

A I would not.

Q Were there people going up and down in front of that house on the sidewalk?

A There was people going up but I could not say whether they were the same persons or not. Naturally on this street

there would be people going up and down.

Q There were people going down?

A Yes.

Q And there were people going up?

A Yes, sir.

Q Is that what you mean?

A Yes, sir.

Q You don't know whether it was the same people?

A No. I was reading the paper.

Q You got a hold of something interesting in the paper?

A There always is.

Q Probably reading about Ty Cobb or something like that?

A That or the funny sheet.

Q Oh, yes. Well, on the other side of the street you did not even look?

A No, sir.

Q You did not even look to see how many automobiles were parked around there, if any?

A Are you referring to while I was sitting on the porch or on my way to the corner?

Q We will first call it while you were sitting on the porch?

A No, I never noticed automobiles at that time.

Q You don't know whether there were any or were not?

A There probably were. There is people that own automobiles. The storekeeper over there has his car always parked there.

Q We have heard about his Ford. Is there anybody else who has got an automobile around there?

A The people next door to us have their automobile out there

in front most of the time.

Q Who are the people next to you?

A Drapers.

Q Does he park his automobile on the street?

A During the day sometimes. I could not say whether his was there at the time or not.

Q He does not park it there at night?

A No, he does not. He has a garage.

Q He has got a garage, has he?

A Yes, sir.

Q Was Mr. Draper there?

A I could not say.

Q You did not see him walking up and down the street?

A No, I did not.

Q If he was there you did not notice him because you were reading?

A Yes, sir.

Q Was his boy there?

A I do not know that even.

Q You know his boy?

A I do, quite well.

Q You do not know whether he was there or not?

A No, sir.

Q Was he in your house or on your porch that evening that you know of?

A No, he was not on my porch that night at all or in the house.

Q He was not with you at any time?

A No, sir, not that day.

Q You left the porch and went into the house?

A Yes, sir.

Q Did you say it was about half past seven that you left the porch?

A Around that time.

Q You stayed in the house around a half an hour?

A Well, it must have been more than that. The shooting occurred around between a quarter after eight and half past, so I must have stayed in the house until about some time after eight.

Q Most of the witnesses have fixed the shooting at around 8:25, so you are right in saying between a quarter and half past? I guess there will not be any question about that. I am perfectly willing to have you use 8:25 as a starting point for your estimates.

A Then it must have been around between 8:20 and 8:25 that I went out, or left the porch.

Q You say that you were playing the Victrola, or the Victrola was playing in there?

A I did. I had played the Victrola.

Q How long?

A Oh, part of the time that I was in the house.

Q Nobody else there?

A My cousin.

Q What?

A My cousin.

Q Anyone else?

A That is all.

Q No one else in the house?

A No, sir.

Q As far as you knew?

A No, sir. I am quite sure there was no one else.

Q Where was your father?

A He was standing on the corner.

Q For how long had he been standing on the corner?

A I don't know.

Q When did you see him standing on the corner?

A Well, when I went down towards the corner. That was between 8:20 and 8:25.

Q Up to that time where was he?

A I do not know.

Q Was he around the house, or don't you know?

A I imagine he was around the house.

Q You ~~are~~ would not swear positively to that?

A No, I would not.

Q That is what you suppose?

A That is a supposition.

Q Then he went down to the corner between 8:20 and 8:25, did he, from the house?

A He was already there. I went from the house.

Q You saw him there at that time?

A Yes, sir.

Q When you went out of the house at 8:20 or 8:25 they were still keeping the people back, weren't they?

A Well, they were still doing - -

MR. MOLL: Who?

Q The policeman?

A They were still separating any crowds that stood around that corner.

Q Not letting them pass up the streets?

A I believe they did let them pass.

Q But they separated them?

A Yes, sir.

Q And kept them moving?

A Yes, sir.

Q When people would gather together they would separate them and send them along?

A Yes, sir.

Q How many policemen, about, were engaged in that business?

A There was around eight or ten; between eight or ten.

Q They were mixing with the people?

A No, they were not. They were stationed at definite posts, I imagine, and just told the people to move, if they came down out of their position.

Q When you use the word "imagine", you mean you think, don't you, in the sense of thinking?

A I will say that is what they did; not what I think.

Q I don't care which word you use just so that we understand you. That is your opinion, that is what you think they did?

A No; that is what they did.

Q You saw them?

A I saw them do that.

- Q Did you pay any attention to the situation over by the grocery store?
- A I did not. I could not see past the grocery store.
- Q Do you know anything about what people there were on the corner, if any, around the grocery store?
- A No, I do not.
- Q Of course, you don't know anything about the people further north beyond the grocery store?
- A No, I do not.
- Q At no time?
- A No.
- Q Do you know anything about the people around the corner on Charlevoix?
- A No, sir.
- Q Or south from you?
- A No, sir.
- Q You did not pay any attention to them?
- A No, sir.
- Q The most that attracted your attention, as far as people were concerned, was that they would be dispersed if they gathered in bunches, and were kept moving by the policemen?
- A Yes, sir.
- Q You did not see any stones thrown against the Sweet house?
- A I never did. I could not have heard it anyhow if they were thrown, because I was in the house, as I said.
- Q You did not see any after you came out?
- A No, sir.
- Q You did not see any glass broken in the Sweet house?
- A No, sir.

Q You had only been out there a few minutes when you heard shots?

A Yes, sir.

Q Where were you standing then with reference to your father?

A I was a very short distance behind him, that is, south of him.

Q What did he do then?

A I could not tell you. I paid no attention to what he did.

Q Did you see Mr. Draper that evening?

A Why, I could not state whether I saw him or not. I probably did. He lives next door.

Q You do not know whether he was out there too?

A I do not.

Q Or whether his son was out there?

A No, sir.

Q Or any other boy was with him?

A I do not know.

Q Haven't you got any idea?

A No, sir.

Q You know that none of them were up on the porch with you?

A I know that much.

Q Any special reason why you came out there at that particular time?

A I just saw my dad and I went down towards him.

Q And you had not seen your dad for some time before?

A Well, no, sir.

MR. DARROW: That is all.

MR. MOLL: That is all.

W A L T E R S M I T H, was thereupon called as a witness on behalf of the prosecution, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MOLL:

Q Mr. Smith, where do you live?

A 2587 Garland.

Q On which side of Garland is that?

A On the west side.

Q And between what streets, please?

A Between Waterloo and Charlevoix.

Q Were you in the vicinity of the intersection of Garland and Charlevoix on the night of September 9th, this year?

A Was that the night of the shooting?

Q Yes.

A I was.

Q Did you see or hear any shooting there?

A I did.

Q Where were you at the time?

A Standing on the corner of Garland and Charlevoix, southwest.

Q Which corner, please?

A Southwest corner.

Q That was over by the apartment building?

A Yes, sir.

Q By the way, you do not live in the apartment, do you?

A No, sir.

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Q Did you see any shots fired from the Sweet house across the street?

A I saw one flash come out of the second story window.

Q On which side of the house?

A On the south side of the house.

Q That would be the Charlevoix side?

A Charlevoix.

Q Did you see any come from the front of the house?

A No, sir.

Q About how many shots did you see fired?

A There was perhaps six, about five or six shots, and then a short pause, and then perhaps a dozen more, in quick succession.

Q How long was that pause?

A Oh, probably a few seconds.

Q Now, prior to the shooting, how long had you been there on the corner?

A Probably a minute. I had just walked up there.

Q What was your reason for going there?

A Well, it was more for curiosity than anything else. There was a few people around.

Q In going there from your house, had you passed any people on the street?

A Well, I might have passed a few but not --

Q Well, do you remember passing any?

A Well, I suppose I did pass some people there.

Q Did you see any persons congregated in the vicinity of the Sweet house?

A No, there was no persons congregated there.

Q Did you see any disturbance of any kind?

A No, sir.

Q Did you see anybody on the stree that was armed?

A No, sir.

Q Did you see any stones thrown?

A No, sir.

MR. MOLL: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Do you know why nobody was congregated there?

A Because the officers would not let anybody congregate.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. MOLL:

Q Well, can you estimate the number of people that you saw in that immediate vicinity?

A I would say between sixty and seventy-five.

Q And where were these people?

A Well, that includes probably about half a block each side, all I saw on the sidewalk, walking up and down.

Q When you say "half a block each side", you mean a half a block which way from where you were?

A From the corner, except north of Charlevoix, I couldn't see up there, it was dark.

Q You are estimating the number of people that were within your view from the corner, is that right?

A Yes, sir.

MR. MOLL: That is all.

RECROSS EXAMINATION

BY MR. DARROW:

Q You could not see north of Charlevoix?

A Well, not very far, no, it was dark.

Q Could you see anybody? Do you count anybody north of Charlevoix in your estimate?

A Well, no. There was some officers right on the corner. On the grocery store side there was a few people.

Q Are you including those in your estimate?

A Yes, sir.

Q A few people in front of the grocery store there?

A Yes, sir.

Q Do you know how many there were of those?

A No, sir, I couldn't say. They were not any thicker there than anywhere else. There was a few people standing in there.

Q Now, here is a map, if you will look at it for a minute.

Here is the grocery store. Were the people at the grocery store, whatever they were, were they on Charlevoix or on Garland, or don't you know?

A Well, they were right around that corner there, I couldn't say.

Q And from over half a block this way, you estimate from fifty to seventy-five, is that right?

A Well, as far as I could see from the corner, I don't think

there was over seventy-five people, in the way I looked.

Q Did you look any the other way?

A Well, not particularly no.

Q How did you happen to go down there?

A Just merely for curiosity.

Q What?

A Well, there was more people there than ordinarily, at that time of the night.

Q Well, you knew why they were there, didn't you?

A I supposed they were there, on account of the colored people moving in, up there.

MR. TOMS: You would not contend that that was competent, would you, Mr. Darrow?

MR. DARROW: Yes.

MR. TOMS: If he knew why they were there?

MR. DARROW: Yes.

MR. TOMS: All right. If you will seriously claim that is competent, I won't object.

MR. DARROW: Well, now, why wouldn't it be?

MR. TOMS: There might be a dozen different reasons, in the minds of any people who were there.

MR. DARROW: There might be, but there were not.

MR. HAYES: There was just one.

Q (By Mr. Darrow): Have you any idea about why they were there?

MR. MOLL: I do not think that is a matter we ought to argue about. That is a matter for the jury.

MR. DARROW: Well, you had an idea why they were there,

didn't you?

A I can't say. I had an idea why they were there. I supposed a lot of them were there out of curiosity, the same as I was.

MR. TOMS: Now, you have got it.

Q (By Mr. Darrow): In connection with the colored people coming in there, is that right?

A Well, possibly so.

Q Well, don't you know so?

MR. MOLL: I think it is all right for him to give his reason why he was there. But, I think, with Mr. Toms, that we are stretching the point when we ask why all of these other people were there.

THE COURT: Mr. Darrow has the right to ask the question.

MR. DARROW: That is why you were there, isn't it?

A That was one of the reasons, yes.

Q (By Mr. Darrow): Did you have any other?

A There was a gentleman living with us at that time, and he had walked up to buy some cigarettes, and he had only been in town a few days, and it took him a little longer than it should take, and I thought perhaps he was confused in his directions, and I walked up to look for him, too.

Q Whereabouts did he go after the cigarettes?

A To the confectionery, up there.

Q Where is the confectionery?

A Right above the grocery store, a couple of doors.

Q But you would not call that curiosity, looking for him, would

you; that would not be going up there for curiosity, would it?

A No.

Q The curiosity was in connection with what was happening around this colored man's house, wasn't it?

A The people had been congregated there.

Q You say that you had heard that matter discussed in the neighborhood for some time before, hadn't you?

A Well, just a few days before. I didn't know that there was anybody moving in there.

Q What is your business, Mr. Smith?

A Electrotyper.

Q Have you lived there very long?

A Since June 1st.

Q Are you a member of the Waterworks Improvement Association?

A No, sir.

Q Do you remember their meeting on the corner there?

A No, sir.

MR. TOMS: They never had any meeting at that corner. You mean at the schoolhouse?

MR. DARROW: At the school.

Q And, were there quite a number of people on the west side of Charlevoix?

A On the west?

Q On the west side of Garland, south of Charlevoix?

A No, not any great amount of people.

Q ~~Among~~ Anybody?

A Well, there might have been some walking up and down there.

Q Did you recognize anybody there?

A No, I did not.

Q Did you see Draper there?

A Who?

Q Draper; you have got a neighbor by that name, haven't you?

A I don't know. If I have, I don't know him.

Q You don't know him?

A No, sir.

Q Do you know Belcher?

A I don't know him - - I didn't know him until I met him today.

Q Then, you don't know whether you saw him or not?

A No, sir.

Q Did you see anybody in the schoolhouse yard?

A I did not, before the shooting.

Q Did you look over there?

A Well, I didn't look anywhere in particular.

Q Well, any people that you included in that 60 to 75 were not people in the schoolhouse yard?

A They were people, as far as I could see, as far as I seen.

Q Did you see any in the schoolhouse yard, before the shooting?

A I don't remember. I don't think I did.

Q Well, then, the sixty or seventy-five you estimate were not people in the schoolhouse yard, were they?

A If there was anybody in there, that don't include them.

Q Yes. That is what I am getting at. You did not pay any particular attention, by way of making an estimate, did you?

A No, I did not.

Q Do you know whether there were any automobiles parked around there?

A I don't think there was any more than usual.

Q Do you know whether there were any?

A Yes, there was automobiles parked there.

Q Whereabouts?

A Along the curb, on Garland.

Q Any on Charlevoix?

A I don't remember seeing any. I do not remember that.

Q Did you see any people on the north side of Charlevoix?

A On the north side?

Q Yes, where that apartment building is.

MR. TOMS: That is, the south side of Charlevoix?

MR. DARROW: Yes. That would be the south side.

Excuse me. The south side of Charlevoix.

A I didn't notice.

Q You didn't notice any there?

A No.

Q So that, these were not included in your estimate, if there were any there?

A No, sir.

Q What were the officers doing around there?

A They would not let anybody congregate, I know that.

MR. MOLL: Around where, please?

MR. DARROW: Around the corner.

MR. MOLL: Which corner?

MR. DARROW: Charlevoix and Garland.

MR. MOLL: Well, which corner? There are four

corners there.

MR. DARROW: I do not think there is but one corner, is there?

MR. MOLL: I think there is one intersection, with four corners. That is what I think.

Q (By Mr. Darrow): Well, what were they doing around the intersection?

A They would not leave anybody congregate.

Q And there were a good many officers there, weren't there?

A Well, I would say there was. I think there was eight or ten there.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. MOLL:

Q Well, where were these people that you paid particular attention to, and which you are estimating their number?

A Well, I included people - -

MR. MOLL: Pardon me just a minute.

A JUROR: I would like to see on the drawing where the witness claims there was sixty-five. Mr. Darrow was standing in front of the drawing.

MR. MOLL: I am coming to that now.

MR. DARROW: We will get to that.

MR. MOLL: Let us go back just a little bit.

Q You claim you were in the vicinity of the southwest corner of Charlevoix and Garland?

A Yes, sir.

Q After leaving your house, and when you approached Charlevoix - -

MR. TOMS: Right here (indicating on diagram.)

A This corner here.

Q (By Mr. Moll): Now, where was it that you saw the people as you approached the corner?

A Well, on the sidewalk, either side of Garland, going to the corner, I noticed people; and there was some in front of the grocery store. They were on that corner. And I don't remember of seeing anything but policemen in front of the house.

Q All right. So that, you say that, going towards Charlevoix, you saw people on both sides of the street?

A Yes, on both sides.

Q Of Garland?

A Yes, sir.

Q That would be both on the side nearest the apartment house, and on the side nearest the school?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q So that you did see people in the vicinity of the Howe School, and on the sidewalk on Garland?

A Yes, sir.

Q Is that right?

A Yes, sir.

Q Now as I understand it, that school was not built right up to the corner?

A No, sir.

Q The apartment house is, is it not?

A Yes, sir.

Q Of course, the Garland Avenue side of the apartment is built back to correspond with the building line?

A Yes, sir.

Q On Charlevoix it is flush with the sidewalk,

A Yes, sir.

Q The Howe School, however, is not ~~ga~~ built up to the corner?

A No.

Q It is set back in?

A Yes.

Q And there is an open space on both Garland and Charlevoix, is there not?

A Yes, sir.

Q And I understand also there is a fence around the school?

A Yes, sir.

Q The fence being set back some distance from the sidewalk, is that right?

A Well, on the Garland side the fence is pretty near to the sidewalk. I don't think there is any fence in front.

Q You don't know. By "front", you mean the Charlevoix side?

A Yes.

Q You do not know that there is any fence there?

A No, sir.

Q Well, anyhow, the people that you saw, and the number of which you are estimating, you passed when coming from your house to the corner, on both sides of Garland, am I right?

A That includes the people at the store, too.

Q And that number also includes people that you saw at the

store diagonally across the corner?

A Yes, sir.

Q Now, did you see people in any place else? You say you saw something like eight police officers?

A I think there was about eight.

Q Are you including them?

A Well - -

Q Or, do you distinguish them?

A I do not distinguish them.

Q Were there people on Charlevoix, both east and west from Garland?

A Charlevoix?

Q Yes, did you notice any people on Charlevoix?

A I didn't notice any west of Garland. Of course, there was people east of Garland, right around the corner; but I didn't see them go past the corner.

Q Then the number you have estimated were persons that you saw on both sides of Garland, and across near the store on the northeast corner?

A Yes, sir.

Q Is that right?

A Yes, sir.

MR. TOMS: And some on the south side of Charlevoix, east of Garland, you said?

A East of Garland, yes.

Q (By Mr. Moll): Now, at any place, did you see any disturbance?

A I did not.

Q Or any violence?

A No, sir.

MR. DARROW: I object. You have gone over that.

MR. MOLL: If I did, I won't repeat it. That is all.

MR. DARROW: I am pretty sure you did.

MR. MOLL: I won't press it.

MR. DARROW: I just want to ask one more question.

RECROSS EXAMINATION

BY MR. DARROW:

Q The people that you saw were on the street, on the sidewalk?

A There was nobody on the street, I don't think. They were all on the sidewalk.

Q They were all on the sidewalk, that you referred to?

A Yes, sir.

Q Could you estimate how far down south on Garland? I think you said a half a block, didn't you?

A From my house, yes, it is about a half a block.

MR. DARROW: That is all.

MR. FRIEDMAN: He said seventy-five people, didn't he?

MR. DARROW: Sixty to seventy-five. He did not estimate anybody on the schoolgrounds.

MR. MOLL: That is all.

(witness excused.)

- - - - -

B R U C E S T O U T, was thereupon called
as a witness on behalf of the prosecution, and
having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Where do you live?

A 2931 Garland Avenue.

Q 2931, that is on the west side of the street?

A yes, sir.

Q And how far north of the Sweet house on the corner, how many
houses?

A About the fourth house.

Q About the fourth house?

A Yes.

Q And were you home on the night of the 9th of September?

A Yes, sir.

Q Where were you between 8 and 8:30?

A Between 8 and 8:30?

Q Yes.

A I was out in front.

Q In front of your house?

A Yes, sir.

Q How old are you?

A 24.

Q Are you married?

A No, sir.

Q Do you live there with your parents?

A Yes, sir.

Q Do they own that property?

A No, sir, they rent.

Q Tell us what happened after you went out on the street, after supper?

A I was going down to see my girl, and I got about to the hedge, at the north boundary line of the lot, where the Sweet's had purchased their home, and I talked to a fellow there for a couple of seconds, when they fired shots.

Q Now, let's see. You were going down Garland?

A Yes, I was going south.

Q And you say you got to the hedge which separates the Sweet house from the house next on the north?

A Yes, sir.

Q Were you on the sidewalk?

A Yes, sir.

Q Well, then, you were in about this position. This is the Sweet house (indicating on diagram)?

A Yes.

Q The house next to it is not indicated; but you were on a line ~~xxx~~ with the hedge between those two houses?

A Yes, just about.

Q On the sidewalk?

A Yes.

Q And you had stopped a second to talk to someone?

A When I was talking to him, I had gotten off the sidewalk.

Q Which way?

A On the lot.

Q On the lot?

A Yes, sir.

Q And what happened? What did you hear or see?

A They were firing shots. Then they fired shots.

Q Where did the shots come from?

A The shots came from the upper windows.

Q The front windows?

A Front and side.

Q Of the Sweet house?

A Yes, sir.

Q How many shots?

A All told, in both volleys, I imagine there was probably twenty-five or thirty shots.

Q And you could see the flashes of them?

A I could.

Q What did you do?

A I stood right there.

Q Until the shooting was over?

A Yes, sir. Then I crossed the street.

Q Then you went across Garland Avenue to the east?

A Yes, sir.

Q What did you see over there?

A I crossed the street, and I had got about to the sidewalk on the opposite side, when they opened fire again. I was going, and I was right across where Dove's live, and there is a little small tree there, and I heard Mr. Briener shout, "Boys, they shot me."

Q Did you know Briener?

A Yes. I was not a personal friend of him, but I knew him when I saw him.

Q You knew him in the neighborhood?

A Yes.

Q Did you go up to him?

A I ran to him. I was the only man there.

Q What was he doing?

A He was in front of the house, by the steps, and his back was up against it, and he had his hands like this; and I tried to pick him up, and his feet - -

MR. TOMS: Just a minute. You are indicating, the hands across the abdomen?

A Yes. And his feet were out like that on the ground; and I couldn't raise him up, on account of the position that he was in. I yelled for help, but I could get no help. There was no one around me. Finally, after that, after the firing had ceased, three or four officers came from the north, running south past Dove's, and they got to about the south part of the house, when they turned around and came back again, after I had yelled out for help. They picked Mr. Brienor up, and put a flashlight on him, picked him up, and took him out into a car.

Q Did you accompany them after that?

A No, sir, I did not.

Q You did not go in the car with them?

A No, sir.

Q Well, then, according to your testimony, there were two short volleys while you were standing on the west side of the street?

A No.

- Q Just one?
- A Just one.
- Q You crossed Garland Avenue, and as you got to the sidewalk across the street, there was another?
- A Yes, sir.
- Q Your back must have been turned to the Sweet house at that time?
- A Yes.
- Q You did not see where those shots came from?
- A No, sir.
- Q As you came down Garland Avenue, were there many people on the west side of the Street?
- A No, there was not.
- Q How many officers did you meet, if any?
- A I imagine all told on both sides of the street, there was probably between ten and fifteen.
- Q On both sides of Garland?
- A Well, surrounding the Sweet home.
- Q Surrounding it?
- A Yes.
- Q Had you been down there before, that evening?
- A No, sir. I just got home from work, and I had gone in and eaten and cleaned up, and was going out again.
- Q Did you stop after you left your house, until you got down to the place where the shots were fired?
- A No, sir.
- Q Well, as you came down Garland Avenue, you say you were about four houses up?
- A Yes, about the fourth house up.

Q That probably took you a couple of minutes to walk that, didn't it?

A Yes.

Q Were you struck by any stones?

A No, sir.

Q Did you see any thrown?

A No, sir.

Q Did you see any person who was armed?

A No, sir.

Q Or carrying clubs or missiles of any kind?

A There was none whatsoever.

Q Did you hear any stones or missiles thrown?

A No, sir.

Q Did you hear any glass break?

A No, sir.

Q Where did Mr. Briener live with reference to you?

A He lived north, on the opposite side of the street.

Q A little further north on Garland?

A About the fourth house, I imagine, north.

Q Did you know his daughter?

A Yes. I knew him when I saw him.

Q His two daughters?

A Yes, sir.

Q Did you know Mrs. Briener?

A Yes, sir.

Q How old were his daughters?

A I think one was about sixteen or seventeen.

MR. HAYES: that is objected to.

MR. DARROW: We object to the question.

THE COURT: Objection sustained.

MR. TOMS: Goodness!

MR. DARROW: Isn't that where he was going?

MR. TOMS: No, sir.

MR. DARROW: What has the age of his daughter got to do with it?

MR. TOMS: It has just as much to do with it as what was in the minds of everybody around there.

MR. DARROW: Oh, no, it has not.

Q (By Mr. Toms): You were not going to their house that night, were you?

A No, sir.

Q You mentioned about going to see a girl. It was not there?

A No, sir. She lived on Pennsylvania Avenue.

Q On Pennsylvania Avenue?

A Yes, sir.

MR. DARROW: We are glad to find out where it was.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q What is your first name?

A Bruce.

Q Any relation to Ira?

A Who?

Q Ira Stout?

A Sweet, no.

Q Stout? S&out?

A No, sir.

Q Where is it you live?

A 2931 Garland.

Q How far north is that?

A How far north from where?

Q Well, we will say from Charlevoix?

A Well, it is about the fifth -- the fourth house up --
it is the fifth house up.

Q You mean in the block?

A Yes, sir.

Q You came out about what time?

A About eight o'clock.

Q What time did you go into your house?

A When?

Q That night?

A I couldn't tell you definitely what time it was. I imagine
I got home anywheres from a quarter to six until six thirty.

Q So you went in, between that time?

A Yes, sir.

Q Between a quarter to six and six thirty?

A Yes, sir.

Q Where do you work?

A Michigan Truck Equipment Company.

Q And you stayed into the house until what hour?

A Well, it was approximately, I imagine around eight o'clock.

Q And then what did you do?

A After leaving the house, I came out and started down the
street.

Q You had just got that far, when you heard the shots?

A Yes, sir.

Q You had not walked over one hundred feet, had you?

A No, about that.

Q And you heard the shots, and then started across the road?

A Yes, sir.

Q And then you found that Briener had been hit?

A Yes, sir.

Q And you stayed there until he was taken away?

A Yes, sir.

Q And then you went where?

A Then I went down with my girl.

MR. DARROW: Well, we won't detain you any longer, then. That is all.

MR. TOMS: That is all.

(Witness excused.)

- - - -

THE COURT: Adjourn until tomorrow morning at nine thirty.

(Whereupon an adjournment was taken until the next day, Wednesday, November 11th, 1925, at 9:30 o'clock A. M.)

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	<u>I</u>	<u>N</u>	<u>D</u>	<u>E</u>	<u>X</u>	
WITNESSES	DIRECT	CROSS	RE-DIRECT	RE-CROSS		
Dwight Hubbard...	856	862				
Eric Houghberg...	865	872				
Edward J. Miller.	873	877				
Claire N. Miller.	881	885				
Raymond Alef.....	886	891				
Lawrence Grant...	910	914				
Otto W. Lemhagen.	928	938				

- - - - -
 ARTHUR WEINBERG
 2334 E 68TH ST
 CHICAGO 49 ILL

Wednesday, November 11th, 1925.

9:30 o'clock A. M.

D W I G H T H U B B A R D, called as a witness in behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q What is your name?

A Dwight Hubbard.

MR. DARROW: What is his name?

MR. TOMS: Dwight Hubbard.

Q How old are you?

A 17.

Q Where do you live?

A 10,145 Goethe.

Q Near what other street is that?

A Hurlbut.

MR. DARROW: Which street?

Q On the night of September 9th, were you in the vicinity of Charlevoix and Garland Avenue in the evening?

A Yes, sir.

Q What time did you go over to that neighborhood?

A About quarter to eight.

Q How far away from that intersection do you live?

A Well, at the time of the shooting I lived about fifteen houses, I should say.

Q Where?

A 3075 Garland.

Q That is north on Garland from Charlevoix?

A Yes, sir.

Q You have moved since that time?

A Yes, sir.

Q On that evening, how near were you to the corner of Garland and Charlevoix?

A Well, about the middle of the block. I was between St. Clair and Garland.

Q You were on Charlevoix then?

A Yes, sir.

Q How did you happen to go over there?

A I was waiting for a truck that comes along Charlevoix there to go to work at Hudsons.

Q Does that truck pick you up regularly?

A Yes, sir.

Q Do you work nights?

A Yes, sir.

Q Did then at the Hudson Motor Car Company?

A Yes, sir.

Q Now, while you were waiting there, what did you see happen?

A Well, they were -- a great number of people and the officers -- I won't say a great number -- there were a large -- there were a few people there and the officers --

MR. DARROW: Now, just a minute. Let's have that.

MR. TOMS: He hasn't finished his answer yet. You can have it. Go ahead.

A There were a few people there and the officers were keeping them moving; suddenly there was a volley of shots.

Q Where were you standing?

MR. DARROW: Wait a minute, now. I want the answer read.

(The answer was repeated by the reporter.)

MR. TOMS: Do you want the rest of it?

Q Where were you standing when you heard or saw the volley of shots?

A Right about the end of the school there on Charlevoix.

Q On the south side of Charlevoix?

A Yes, sir.

Q What do you mean by the "end" of it?

A School sits on the block there, and there is one end of it faces on Garland, and there is one end that faces on St. Clair.

Q On St. Clair or Charlevoix?

A On St. Clair. One side of it faces on St. Clair and one on Garland.

Q School, the Howse School?

A Yes, sir.

Q Does that run clear through to St. Clair?

A No, sir.

Q Well, then, how does that face on both St. Clair and Garland?

A Because there is nothing in between, and there is a door that leads up to the school on the St. Clair side. There is a door that leads up to the school on the Garland side.

Q Well, the building itself, how far from the southeast corner of Garland and Charlevoix were you?

A Well, I should say fifty feet.

Q Fifty feet from Garland?

A No, sir, from St. Clair.

Q Fifty feet from St. Clair. That is the next street east of Garland?

A Yes, sir.

MR. DARROW: Street west, isn't it?

MR. TOMS: No, east.

MR. DARROW: East of Garland? Yes, that is right.

Q Were you east of the alley that runs north and south?

A Yes, sir.

Q On the south side of Charlevoix -- is that right?

A Yes, sir.

Q So that you were somewhere in here (indicating), this is the alley. This is Garland.

A The alley doesn't run through.

Q The alley doesn't run through?

A No, sir.

Q There is no alley running through the school grounds?

A No, sir.

Q So this should be out?

A Yes, sir.

Q You were about fifty feet from the corner of St. Clair?

A Yes, sir.

Q That would be over here somewhere?

A Yes, sir.

MR. DARROW: That alley out on both sides?

MR. TOMS: No. This alley is there.

MR. DARROW: The jury understands it should be out

Q on the south side, doesn't it?

A JUROR: School yard.

Q Yes, there is no alley. This ^{is}/school yard from Garland Street here to St. Clair?

A Yes, sir, should be.

Q Continued right straight across. Did you see any flashes of fire?

A Yes, sir.

Q Where did they come from?

A Well, upper window on the house side, that is -- on the -- facing Charlevoix.

Q It is the Sweet house, is it?

A Yes, sir.

Q Northwest corner of Garland and Charlevoix. Which side of the house did you see the shots come from, or the flashes?

A The side that faces the side of the house where the window faces Charlevoix.

Q That would be the south side of the house?

A Yes, sir.

Q Could you see the front of the house?

A No, sir.

Q You go back along Charlevoix?

A Yes, sir.

Q See the front of the house. How long had you been standing there before you heard the shots?

A Well, I should say around about fifteen minutes.

Q And how many other shots did you see or hear, as nearly as you can estimate?

A Well, I should say it would be anywheres from twelve to fifteen.

Q Did you see any police officers?

A Yes, sir.

Q Where were they?

A Well, some stationed on each side of the four corners there.

Q Were there any on Charlevoix?

A Yes, sir; strung in along between the block.

Q After you heard the shots, what did you do?

A I ran over behind the school.

Q And did you stay there?

A I looked around the corner of the school.

Q Were there shots - how were they fired? In one stream, or intermittently?

A There was a volley at first, and then there was another volley.

Q How long between them, if you can tell?

A Well, I couldn't tell.

Q Well, you can estimate, can't you?

A Well, I should say anywheres from one to two minutes.

Q From one to two minutes?

A Yes, sir.

Q You didn't see anyone injured?

A No, sir.

Q You didn't come over on to Garland Avenue at all?

A No, sir.

Q So that you don't know what the conditions were north of Charlevoix on Garland?

A No, sir.

Q Well, as to the conditions on Charlevoix Avenue, how many people, as nearly as you can fix it, did you see?

A I should say anywhere from about twenty-five to thirty-five.

Q And where were they?

A Well, they were walking along Garland -- or walking along Charlevoix.

Q Were there any groups or crowds?

A No, sir.

Q Did you see anyone who was armed?

A No, sir.

Q Outside of the policemen, I suppose, if they were? Did you see anyone carrying stones or clubs?

A No, sir.

Q Did you hear any threats made against the Sweet house, or its occupants?

A No, sir.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q You are 17, you say?

A Yes, sir.

Q You work for the Hudson Company?

A No, sir, for lunch company.

Q What?

A Lunch Company.

Q I don't know where I got that in mind. Lunch company that

sells to employees of the Hudson. I see. That is where I got it. What time do you go to work?

A About quarter after eight.

Q How far away from this corner where you went to work, oh, about. You don't need to tell me exactly?

A Oh, about two miles.

Q What?

A Two miles.

Q And you came up to the corner of St. Clair and Charlevoix to take - - I came pretty near saying a drink - - take a truck?

A Yes, sir.

Q And you stood there about fifteen minutes?

A Yes, sir.

Q When you first started to answer the question as to what you saw, you started to say you saw a great crowd there, didn't you?

A Yes, sir.

Q Then you modified to say a large crowd, didn't you?

A Yes, sir.

Q Then you said a few people after that?

A Yes, sir.

Q Do you know how you happened to change your mind so quick?

A What was that?

Q Do you know how you happened to change your mind and whittle it down so fast?

A No, sir.

Q You have been talked to a good deal about it, haven't you?

A No, sir.

Q Any officers talk with you about it?

A No, sir.

Q What?

A Lieutenant Johnson, if you consider him an officer.

Q Well, I suppose he does, and I haven't any reason to think otherwise. When is the last time he talked with you about it?

A Why, I think it was yesterday morning.

Q How many times did he talk with you about it?

A Once.

Q And you kind of forgot you were to say a few people, didn't you, when you started in?

MR. TOMS: Just a minute, that is an innuendo that has no basis.

MR. DARROW: I think it is perfectly clear - -

THE COURT: Will you read the question?

(The question was repeated by the reporter.)

MR. MOLL: He means forgot.

THE COURT: The objection is overruled.

Q That is - -

A Repeat that question, please?

Q When you started to answer the question, you forgot to say a few people, instead of a great many?

A Yes, sir.

- - -

E R I C H O U G H B E R G, called as
a witness in behalf of the People, having been
first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Where did you live on the 9th of September, this year?

A 2918 Garland, sir.

MR. DARROW: I would like to have his name.

MR. TOMS: Eric Houghberg, H-o-g-g-h-b-e-r-g.

Q That is the house immediately north of the one that Mr. Dove
lives in?

A Yes, sir.

MR. DARROW: One that who lives in?

MR. TOMS: Dove, that is the other man.

Q Where do you work, Mr. Houghberg?

A I work out on Grand River, plumber.

Q Plumber?

A Yes.

Q Were you home that evening?

A Yes, sir.

Q What time did you get home from work?

A Well, I got home 7:30.

Q Did you have your dinner after that, your supper?

A Yes, sir.

Q You board there?

A Yes, sir.

Q And after supper, what did you do?

A Well, after supper, I shaved myself and was standing upstairs when the first volley was shooting.

Q You live on the second floor?

A Yes, sir.

Q You were upstairs shaving when you heard some shots?

A Yes, sir.

Q What did you do then?

A Well, I run out there to see what was going on.

Q And how far did you get from the front door?

A Down the porch -- down on the porch.

Q Are there two steps to that house?

A No.

Q Just one?

A Yes.

Q In the middle of the porch?

A No, it is two.

Q Two?

A Yes.

Q Which steps did you go down?

A The one to Charlevoix.

Q The one what?

A On the south side.

Q On the south side. Well, what happened as you went down the steps?

A Well, I stepped down on the porch -- (inaudible) fence and the porch, and light a cigarette, and Mr. Briener was standing between the other house and our house, and he told me to come down there, and just when I come down there,

first place, were you struck by a bullet?

A Yes, sir.

Q Did you see or hear where the -- did you see or hear any firing?

A Yes.

Q Shots?

A Yes, sir. Which -

Q That is, I mean, did you see them, or hear them or both?

A I heard them and I saw them both.

Q Where did they come from?

A Come from both sides of the house, one front side and the side of the house; I saw the lightning.

Q You saw the flashes?

A Yes, sir.

Q From the front of the Sweet house, do you mean?

A Yes, sir.

Q And the side?

A Yes, sir.

Q Which side?

A That north side.

Q North side. Were those the flashes you saw when you were struck?

A Yes, sir.

Q After you were struck, what happened to you?

A I turned right around, and walked about ten feet, and then another fellow took hold of me, and helped me out, and then I didn't remember any more before I was in the hospital.

Q Well, how long were you out, in front of the house, Mr.

Houghberg, after you came out, before you were shot?

A Well, maybe one and a half minutes.

Q During that time, did you see or hear anything thrown at the Sweet house?

A No, sir.

MR. DARROW: I object. Wait a minute. This young man heard the shots while he was upstairs, and came down and was struck. It was obvious that there wasn't time enough between that and the time he came down to see or hear anything, or know whether anything was thrown against the Sweet house.

THE COURT: The objection is overruled.

MR. DARROW: Very well.

Q Answer it? Do you know the question?

A No, sir.

(The question was repeated by the reporter.)

A No, sir.

Q Which direction was Mr. Briener facing?

A Facing me.

Q Well, were you on the steps?

A No. I was standing there with him, down there - -

Q Of course, I can't tell, which way you mean when you say - -

A He was facing the back alley?

Q Facing east?

A Yes.

Q Toward the house?

A Yes.

Q So that his back would be toward the west side of the street?

A Yes.

Q The side that the Sweet house is on?

A Yes, sir.

Q How long have you lived up there?

A Two years, sir.

Q You just room there?

A Yes, sir.

Q Are you married?

A No, sir.

Q You got home about what time?

A 7:30.

Q From that time on, you weren't out of the house until after you heard some shots?

A No, sir.

Q After you got out of the hospital, did you go back there to live?

A Yes, sir.

Q How long were you in the hospital?

A Seven days - -

MR. HAYES: Objected to.

THE COURT: The objection is sustained.

Q When did you go back home?

MR. HAYES: I object to that.

MR. DARROW: To that we object.

THE COURT: Back home from where?

MR. TOMS: From the hospital.

THE COURT: Do you think that is a proper question after I sustained the objection to the other?

MR. TOMS: I am not trying to circumvent the court at all, although I do earnestly maintain that I should have a chance to show his hospitalization.

THE COURT: Well, the objection is sustained.

Q You live there now, do you?

A Yes, sir.

Q And with whom do you live?

A I live with my cousin.

Q Your cousin?

A Yes.

Q What is his name?

A Victor Enquist.

Q Victor what?

A Enquist.

Q Is that his house?

A Yes, sir.

Q And is he the landlord there?

A Yes, sir.

MR. DARROW: Will you repeat that name?

MR. TOMS: Victor Enquist.

Q When you heard the first volley upstairs, how many shots did you hear, if you can tell?

A Well, I can hardly tell that.

Q Well, you can estimate it, can you not?

A Well, about fifteen or twenty, maybe more.

MR. DARROW: Does he mean the first volley?

Q That is the first volley?

A Yes, sir.

Q Then how long did it take you, as nearly as you can estimate it, to get downstairs? Well, from the time you heard the first volley until you got downstairs and were shot?

A About two minutes after - - well, a minute more was down there.

Q About two minutes. Did you have to wipe off your face?

A Yes, sir.

Q Did you have your shoes on?

A Yes, sir.

Q You went directly downstairs?

A Yes, I went directly.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Was the bullet taken out of your leg?

A Yes, sir.

Q Didn't go through it?

A Yes, sir.

Q Did it go clear through it?

A Yes, sir.

Q Then it wasn't taken out?

A It went out.

Q What?

A It went out itself.

MR. TOMS: What?

A It went out.

Q That is what I mean. Do you know anything about whether

the bullet was found? That is what I mean?

A No, sir.

Q You don't know?

A No.

Q That is all.

MR. TOMS: That is all.

(Witness excused.)

E D W A R D J. M I L L E R, called as a witness
on behalf of the People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Where do you live, Mr. Miller?

A 3053 Garland Avenue.

Q Did you live there on September 9th?

A Yes, sir.

Q Were you home on that evening?

A Yes, sir.

Q What time did you get home from work?

A Well, I was home all day. I came from Buffalo that morning.

Q And after supper, that is, after seven o'clock, were you
out on the street?

A I was sitting on my front porch.

Q Which side of Garland is 2916³?

A The same side of the street I live on.

Q Where do you live?

A 3053.

MR. DARROW: East or west side?

Q You live at what?

A 3053.

Q 3053?

A Garland Avenue, yes, sir.

MR. DARROW: 3053 what?

A Garland.

Q That is on the west side of the Street?

A West side of the street.

Q How far from Charlevoix?

A About 300 feet, I believe it is.

Q How many houses between you and the corner?

A Well, about ten or twelve, I think.

Q You are about halfway in the block, aren't you?

A A little over halfway.

MR. DARROW: You are not halfway towards Charlevoix?

Q You are nearer Goethe than Charlevoix?

A Yes.

Q Now, what were you doing in the evening? at 7 o'clock?

A I was sitting on my front porch.

Q And who was with you, if anyone?

A My wife.

Q Have you any family, any children?

A No, I have not.

Q Now, tell us what you saw or heard after you went out on the porch?

A Well, we were sitting on the front porch reading a paper until it got kind of dark, and 8:15 heard some shots fired. So, with -- my wife and I ran down there, and we ran down there and went across the road.

Q That is, you crossed Garland?

A Crossed-- yes, sir, across the street.

Q Which street was Garland?

A Garland Avenue.

Q Where did you go across the street? How far down towards Charlevoix were you?

A Well, just this side of Dr. Sweet's house, about three houses this side.

Q About three houses north of it?

A Yes.

Q Then you went across Garland?

A Yes, sir.

Q How many shots did you hear?

A I didn't count them. Quite a few shots.

Q Quite a few shots. Tell what happened after you started to cross the street?

A We got across the street. The men started to shoot again. Two volleys of shots, and the second volley of shots, we went across the street.

MR. DARRON: How is that?

A Went across the street, and another volley of shots.

MR. TOMS: He says the second volley of shots, he got across the street, -- --
We went across the street.

- Q The second volley of shots?
- A We got across the street, the second volley of shots, and I saw Mr. Briener, he grabbed himself, and he said "They got me; they got me", and he fell.
- Q Did you see where the shots came from?
- A Dr. Sweet's house. I saw a flash come from that way.
- Q Which part of the house?
- A From the front part.
- Q Upstairs or down?
- A Upstairs.
- Q Did you see one or both volleys fired from there?
- A Well, the first volley I didn't hear. I just heard them.
- Q You just heard them?
- A Yes.
- Q Did you see where the second volley came from?
- A Yes, sir.
- Q And that came from the place you have testified about?
- A Yes, sir.
- Q Did you know Mr. Briener?
- A Who?
- Q Did you know Mr. Briener?
- A No, I did not.
- Q Or any of his family?
- A No.
- Q No. How long have you lived in that neighborhood?
- A Three years.
- Q You had been away at the time just before?
- A Yes, sir, I went over one vacation, over Labor Day.

- Q And you just got back?
- A Just got back that morning.
- Q The morning of the 9th?
- A Yes, sir, yes, sir.
- Q Is that right?
- A Yes, sir.
- Q Where do you work, please?
- A Joseph-Smith & Company.
- Q Joseph & Smith Company. What do they make?
- A Hardware supplies.
- Q Do you own that place?
- A Yes, sir.
- Q Owned it about two years?
- A Three years.
- Q Three years. And you live upstairs or down?
- A The whole house.
- Q Oh, it is a single house?
- A It is a bungalow, semi-bungalow.
- Q On that side of the street there are single houses?
- A Yes.
- Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

- Q You live pretty nearly across the street from where this man was shot?
- A I don't live across the street, no.
- Q Live a little further north?
- A North about 300 feet from that place, on the same side of

the street.

Q I am not speaking about the Sweet house. I am speaking about the house -- you know Dove, don't you?

A Yes, I know where he lives.

Q You live across the street from that, or still farther north?

A Farther north.

Q How far north would it be from his steps --

A 300 feet.

Q What?

A About 300 feet.

Q North of Dove's house?

A Yes, I live towards Goethe.

Q What?

A I live towards Goethe.

Q Close to Goethe?

A Goethe.

Q Close to Goethe. Well, how close do you know how many feet you are to Goethe?

A No, about 400 feet, 200 feet, something like that, eight house.

Q How long had you been down on the porch?

A Just about all evening.

Q Or out on the porch? This is the house?

A Most of the evening.

Q Most of the evening?

A Yes.

Q Anybody else there with you?

A My wife.

Q Did she go out when you went out?

A Yes, sir.

Q When you say all the evening, you mean from - -

A After supper.

Q Well, you got through your supper, I suppose, about half past six or seven o'clock?

A We ate supper about six o'clock.

Q Ate supper?

A Yes, sir. Yes, sir.

Q You could easily eat it in an hour, or a little less, couldn't you?

A Yes, easy.

Q What?

A Yes, it wouldn't be that long.

Q Then you and your wife went out on the porch?

A Yes, sir.

Q Anybody else sit with you at any time?

A No, sir.

Q You sat there all the evening?

A Yes.

MR. TOMS: Louder, please, Mr. - -

Q That would be about an hour and a half, as nearly as you can get at it, that you sat on the porch?

A Yes, sir.

Q Talk any?

A How?

Q Did you talk any?

A Reading a paper and talking about different things.

Q Was she talking to you while you were reading the paper, didn't she?

A Well - -

Q Was she doing anything?

A What?

Q Was she doing anything?

A She was reading part of the paper.

Q She was reading part of the paper. She was looking at the funnies, I suppose?

A I suppose.

Q And that is all that was going on as far as you and your wife was concerned - -

A Yes.

Q - - in an hour and a half? Then you heard some shots, and you started across the street?

A We started to run down the street, and we crossed over.

Q Yes. Any special reason why you crossed over?

A No, curiosity's sake, more than anything else, I suppose.

Q What?

A More for curiosity's sake than anything else, I suppose.

Q Did you think you could satisfy your curiosity better on the other side? You could see the Sweet house better from there, that is it, I suppose?

A Yes.

Q That is what I surmised. And you started across, and where did you hear the second shots, the second volley, call it volley? Where were you when you heard that?

A About fifteen, twenty feet, from this house where Mr. Briener fell down, shot.

Q About the time that you got up there, you said that he was shot?

A He just got -- we just got across the street, started the shooting, and he said "They got me, they got me," and he fell down, and we ran.

Q He was standing up when you first saw him?

A Yes, sir.

Q And the shooting began, the second shooting began, and he said "They got me", and he fell down?

A Yes, sir.

Q That is all.

MR. TOMS: Wait, just a minute.

MR. DARROW: That is all.

(Witness excused.)

- - - -

C L A I R E N. M I L L E R, called a s a witness in behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Mrs. Miller, are you the wife of the last witness, Edward J. Miller?

A Yes, sir.

Q You live on the west side of Garland Avenue, between

Charlevoix and Goethe?

A Yes, sir.

Q Did you live there on September 9th?

A I did.

Q Were you out on the porch with your husband after dinner?

A I was.

Q What time did you go out?

A Oh, I would say around 7:30.

Q Then what did you do? What happened after that?

A Why, we were reading the paper.

Q Yes?

A And I would say that was around quarter after eight we heard volleys so we started down that way.

Q Down which way?

A Down towards Charlevoix.

Q Yes.

A And we had just got across the street and stopped, they started shooting, again we heard the volleys, and we heard some general remark about "They have got me", and I turned and looked and I saw the gentleman, with his hands across his stomach, and then we left, run, to get away.

Q Where were you when you heard the first shots?

A We were in front of their -- on the porch.

Q Sitting there reading the paper?

A Yes, sir.

Q Your husband a member of the Waterworks Park Improvement Association?

A Yes, sir.

Q And he was sitting there on the porch with you?

A Yes, sir.

Q When the first shots were fired?

A Yes, sir.

Q And you started down Garland?

A Yes, sir.

Q And then went across the street?

A Yes, sir.

Q How far down did you go before you started to cross the street?

A Oh, we were - - I would say we went down about 200 feet. I couldn't tell exactly.

Q That is about it. Then you started across on the other side of Garland?

A Yes, sir.

Q Did you see where the shots came from?

A Why, I took it for granted across the street - -

Q No, no. Wait a minute, just answer my question, please.

Did you see where the shots came from?

A No.

Q The second volley?

A I didn't see, no, sir.

Q Where did they sound from?

A From across the street.

Q Do you know where the Sweet home is on the corner?

A Yes, sir.

Q When you say from across the street, where did you place yourself?

MR. DARROW: Just a minute. Well, all right. I

beg your pardon.

Q When you say from across the street, you don't say whether you were on the east or west side?

A Well, we were on the east side.

Q That is, after you got on the east side, they sounded from across the street?

A Yes, sir, west side.

Q As you went down Garland Avenue, was the street crowded?

A It was not.

Q When you got over on the east side, after the second volley of shots, was that side of the street crowded?

A It was not.

Q Did you see any police officers there?

A Not right there, no, sir.

Q Did some come up later?

A Why, I couldn't say for we went away, left there right away.

Q Did you see any officers anywhere?

A Not at that time, no.

Q You had seen them earlier in the day, you mean?

A Surely had, yes, sir, a number of them.

Q While you were coming down Garland Avenue, after the first volley, or while you were on your porch, well, you couldn't see whether anything was thrown at the Sweet house from that distance anyway, could you?

A No, sir.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Are you a member of the Waterworks Improvement Society?

A No, sir.

Q Does your husband?

A Yes, sir.

Q Well, you were sitting on the porch reading?

A Yes, sir.

Q And you heard some shots?

A Yes, sir.

Q And got up and went across the street?

A Yes, sir.

Q You had no difficulty getting across on account of the crowd?

A No, sir.

Q How many people were around in front of the house where this man was shot, or don't you know?

A I don't know.

Q Couldn't tell anything about that?

A No, sir.

Q You possibly were excited?

A Surely.

Q When you got pretty close up to the house, you heard some -- -- shots again, and found this man was struck?

A I saw him as he fell.

Q As you rushed back home?

A Yes, sir.

Q I guess that is all.

RAYMOND ALEF, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Where do you live, Mr. Alef?

A 11,757 Chelsea.

Q Chelsea?

A Yes, sir.

Q Where is that?

A That is out the Gratiot Avenue section.

Q Where were you on the night of September 9th, after dinner?

A On Garland and Charlevoix.

Q What time did you get to that neighborhood?

A About six o'clock.

Q What was your purpose in being there?

A We have an office on St. Clair and Charlevoix.

Q On St. Clair and Charlevoix, that is a block away?

A Yes, sir.

Q What is your business?

A Real estate.

Q And you keep an office open in the evening?

A Yes, sir.

Q And you were there on that night?

A Yes, sir.

Q You went there about 7 o'clock?

A Yes, sir.

Q Six o'clock, did you say, or seven?

A About six, I guess, when I got up to the office.

Q About six. Well, keep your voice up, Mr. Alef. A little louder, please. Did you drive there?

A I drove to the office.

Q I mean, the office?

A Yes.

Q Then did you stay in your office the rest of the evening?

A No.

Q Did you go over to the corner of Garland?

A I did.

Q Well, what - - describe the situation around that corner when you went over there?

A Why, everything seemed to be quiet. There were a few people standing around.

Q Were there any police officers there?

A There was.

Q What were they doing?

A They - - well, they were standing around there.

Q Talking - - did they say anything to the citizens?

A Well, some of them they told to move on.

MR. DARROW: Now, is that six o'clock he is referring to when he went over?

MR. TOMS: He hasn't fixed the time. Some time after six.

Q What time was it when you went over to the corner?

A Oh, about eight o'clock, I guess.

Q About eight o'clock. Between seven and eight. You stayed

- Q in the office some time before you went over there?
- A Yes, sir.
- Q Did you go up Garland at all from north of Charlevoix?
- A No.
- Q Where did you go?
- A We stood at the school corner, the southeast corner.
- Q At the school corner. Did you see any police officers there?
- A There was one or two walking up and down on that side.
- Q Did you hear any shooting later?
- A I did.
- Q Where were you standing when you heard it?
- A Right on the corner.
- Q On that same corner?
- A Yes.
- Q School corner. Did you see where the shooting came from?
- A It came from the house across the way.
- Q That is, which house, on which corner?
- A The northwest corner.
- Q The northwest corner. Did you see the flashes of fire?
- A I saw the flashes.
- Q What part of the house did you see them come from?
- A Why, they seemed to be coming from between the houses, and upstairs.
- Q That is, between what houses?
- A Between the corner house and the house next there.
- Q Door north?
- A Yes.

Q Upstairs, on which side?

A The front.

Q The front. You could see the flashes?

A Yes.

MR. DARROW: See from both places?

MR. TOMS: Yes.

A Well, it was hard to say where they were all coming from, so many flashes come through there.

Q How many shots were fired?

A Why, I imagine about twenty.

Q What did you do when they were fired?

A We left then.

Q And where did you go?

A Back to the office.

Q Back to the office. There were some people walking up and down Charlevoix, were there?

A Yes, sir. They walked.

Q Did you see anyone that evening who was armed?

A No, sir.

Q Or who carried clubs, or stones, or missiles of any kind?

A No, sir.

Q Did you hear any disturbance?

A No.

Q State whether or not people were congregated in crowds?

A No, they weren't.

Q As nearly as you can estimate, how many people were within your view, as you stood at the corner of the schoolhouse?

A About fifty.

Q And where were they?

A Well, they were standing in groups, two or three different places, walking up and down.

Q Did you see any over on the corner by the Sweet house?

A No.

Q Did you see any officers over there?

A I did.

Q Were there people around the school?

A Yes.

Q And your best judgment is that it was somewhere - p

MR. DARROW: You asked him how many there were, and he said about fifty. I don't know whether that is his best judgment or not.

MR. TOMS: That is what I asked him in the first place.

MR. DARROW: That would be leading.

Q The best of your judgment. You couldn't see the north side of the Sweet house, could you?

A No.

Q From where you stood?

A No.

Q Therefore you couldn't see whether shots were fired from the north side or not?

A No, only the flashes.

Q They looked to you as though they came from the north side, between the Sweet house and the next one north?

A Yes.

Q And from the second floor of the front?

A Yes.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q You didn't search anybody to see if they had guns, did you?

A No.

Q Or clubs or stones?

A No, sir, I didn't.

Q You didn't look for any?

A No, sir, I didn't.

Q Didn't see anybody else search anybody?

A No.

Q You are a real estate man?

A Yes, sir.

Q ~~Are~~ Those are lead pencils you have in your pocket. I wasn't quite sure.

MR. TOMS: Signing on the dotted line.

Q You heard of the Waterworks Improvement Company?

A I have.

Q You don't by any chance happen to belong to it?

A No, I don't.

Q Ever have anything to do with organizing it?

A No, sir.

Q You handle property in the neighborhood?

A Yes, sir.

Q Sell any property to colored people?

A No, sir.

Q Were you keeping -- were you down to your office the night

the Waterworks Improvement Company had a meeting on the lawn of the school house?

A Yes, sir.

Q How many were there?

A I don't know. I didn't go over.

Q You saw it, didn't you?

A I saw the people going over, I knew there was going to be a meeting there.

MR. TOMS: I can't hear you.

MR. DARROW: Talk louder.

A I saw the people going over, and I knew there was going to be a meeting there.

Q Well, you saw the people over there, didn't you?

A No, I didn't go over at all.

Q Your office is right across the street, isn't it?

A Yes.

Q Well, didn't you look over?

A Well, the meeting was to be held in the school.

Q It wasn't held out on the lawn at all?

A I believe they did hold it out on the lawn after a while.

Q What makes you believe they did? Did you see that?

A I saw the people going out, and I have a partner that belongs to it.

Q What is that?

A I saw the people go ^{out} of the school, and I have a partner that belongs to it.

Q You saw the people going out of the school on to the lawn, didn't you?

A Yes.

Q You knew they held a meeting on the lawn?

A Yes.

Q How many were there?

A I don't know.

Q Well, to the best of your judgment?

A I couldn't tell you. I didn't pay any attention to it.

Q But you could tell how many were up at the corner that night?

A Well, I was there.

Q Yes. Why, you were at the other place, weren't you?

A No.

Q You were nearer that meeting on the lawn than you were to the Sweet house, weren't you, on the night that this matter occurred, is that right?

A I was closer to the Sweet house.

Q Where is your office? You are familiar with plats. Here is the schoolhouse, and here is Garland, there is Charlevoix, there is the store. Here is the Sweet house. You got the layout, haven't you?

A Where is St. Clair?

MR. TOMS: Over here off the map.

A I believe we are over on the other corner.

MR. TOMS: Which corner of St. Clair?

A We are on the northeast corner, or southeast corner.

MR. TOMS: This is the corresponding corner on the next block?

A Yes.

Q What time -- where were you when you saw the people at the meeting on the school --

A I was just coming into the office when they were coming out of the school.

Q And you saw them on the sidewalk?

A No, they were just coming out of the door of the school.

Q Could you see the door?

A No.

Q What door did they come out of?

A The St. Clair side.

Q Oh, yes. Well, they were right in front of you, weren't they?

A That is a jog, about half a block away.

Q You could see them, couldn't you?

A Oh, yes.

Q How close is your office to the place where they were coming out?

A About half a block.

Q Anything between you?

A No.

Q You haven't got any idea then how many people there were there?

A No, I haven't.

MR. TOMS: Where?

Q At the meeting -- what is your partner's name?

A Connolly.

Q What is your partner's name?

A Connolly.

Q How long have you been down in that office?

A Two years.

Q How long have you lived where you live?

A A year.

Q When did you hear that Dr. Sweet moved into that vicinity?

A I heard he was going to move in about a week before he moved in.

Q Was it a week, or more than a week before?

A About a week, I imagine.

Q Was it two months before?

A No, I didn't.

Q Do you know when he bought it?

A No.

MR. TOMS: Keep your voice up.

Q Where did you hear it.

MR. TOMS: These are the men that want to hear you.

It doesn't make any difference whether Mr. Darrow hears you.

MR. DARROW: Not a bit.

Q Where did you hear it?

A Somebody came into the office and said that there was some colored -- bought the house on St. Clair -- or Garland and Charlevoix.

Q Who was it?

A I don't remember who it was now.

Q Anyway of fixing the time that you heard it?

A No. I didn't pay much attention to it.

Q Weren't you interested in that district, and keeping

colored people out?

A No, I wasn't.

Q Your partner was, wasn't he?

MR. TOMS: Just a minute. Objected to as ~~xxxx~~ incompetent, irrelevant and immaterial, whether his partner was interested in keeping colored people out.

THE COURT: The objection is sustained.

Q You didn't care whether they came, or didn't come?

A No.

Q Don't now?

A No.

Q It was general talk in the neighborhood, wasn't it, about their moving in?

MR. TOMS: If you know?

A No, I don't know.

Q You don't know it was general talk, or not?

A No.

MR. TOMS: Keep your voice - -

Q Did you have - -

MR. TOMS: Mr. Alef, please, now, this is three times. Keep your voice up.

Q Did you ever hear more than one person mention it up to the time that you - - up to the time that this thing happened?

A I have heard it mentioned two or three times, but I never paid any attention to it.

Q Do you know anybody whom you heard mention it?

A My partner mentioned it.

Q He is the one that you learned it from?

- A Well, not at first.
- Q You don't know who that was?
- A No, I don't.
- Q Do you know who lived on that corner before Dr. Sweet came?
- A No.
- Q Do you know who owned it?
- A No.
- Q You have been doing a real estate business in there for two years?
- A Not in that section. We worked the whole east side.
- Q Well, how long have you had an office there?
- A Two years.
- Q And how long have you lived there, two years?
- A I don't live there.
- Q You live near there, don't you?
- A I live two miles from there.
- Q Well, that is my mistake. It isn't unusual. How did you get there that night?
- A An automobile.
- Q You have been in the habit of coming there every night?
- A Yes, sir.
- Q For how long?
- A Two years.
- Q Ever sell any property right in there?
- A Yes, sir.
- Q Much?
- A No, not much.
- Q Now, what time did you get there that night?

A About six, between six and seven.

Q Where did you go?

A To the office.

Q How long did you stay in the office?

A Half an hour or so.

Q You came there between six and seven and stayed in the office half an hour, is that right?

A Approximately, yes.

Q Anybody with you?

A Yes.

Q Were you there the night before?

A Yes, sir.

Q You learned about what was going on around the Sweet house?

A Yes, sir.

Q Knew about it when you came the second night?

A Yes.

Q When you went out of the office, where did you go?

A Over on Garland and Charlevoix.

Q And you stayed on Garland and Charlevoix until the shooting was over, did you?

A Yes, sir.

Q That would be in the neighborhood of an hour and a half or two hours, wouldn't it?

A About that.

MR. TOMS: Well, how did you figure you left the office about half past six or seven?

A I got to the office between six and seven.

Q And you left it when?

A About half an hour or so after that.

Q What time do you say that you left at?

A Around eight o'clock.

Q You have been to school, haven't you?

A Yes, sir.

Q Studied arithmetic?

A Yes.

Q How far did you get in - -

MR. TOMS: Objected to. What difference - -

Q You figure out what time it would be if you got there between six and seven and left in half an hour?

A About seven thirty.

Q Yes, or seven, one or the other, wouldn't it?

A Yes.

Q Why did you tell the jury eight, do you know?

A What is that?

Q Why do you say eight, about eight o'clock?

A I don't remember just what the times were when I come there.

Q I didn't look.

Q Now, what did you go up to the corner for?

A Curiosity.

Q You haven't got curiosity, have you?

A I may have.

Q Went out to see whether you could make a sale, did you?

A No.

Q Curiosity about what?

A Well, there is people going and coming all evening.

Q There was?

A Passing out place.

Q And you knew where they were going to, didn't you?

A Well - -

MR. TOMS: Wait a minute. Did you see where they were going?

A No.

Q You knew where they were going, didn't you?

MR. TOMS: Objected to as incompetent, irrelevant.

MR. DARROW: I want to know why he went there.

MR. TOMS: The question is you knew where they were going.

Q You surmised where they were going?

MR. TOMS: That is doubly objectionable.

THE COURT: The objection is sustained.

Q All right. It is for the purpose of finding out the attitude of this witness, and what he thought.

THE COURT: The objection is sustained to the last question.

MR. DARROW: I don't get your Honor's ruling.

THE COURT: The last question, the objection is sustained. I think that you may make inquiry in another form, about what you brought out.

Q You saw people going up to that corner, didn't you?

A Yes, sir.

Q All this evening you were there?

A While I was there.

Q Yes. And you went up to that corner out of curiosity, to see what was going on, around the Sweet premise, didn't

you?

A Yes, sir.

MR. TOMS: That is right.

Q See any automobiles go up that way?

A I didn't pay any attention.

Q Might or might not been?

A There might have been and there might not.

Q Do you know whether a traffic policeman was stationed on the corner of St. Clair and Charlevoix?

A I know there was after the shooting, after I got back.

Q Do you know whether there was before?

A No, I didn't pay any attention.

Q Do you know whether, when you went up there, there were automobiles parked along the street?

MR. TOMS: Which street?

Q Charlevoix?

A Oh, I think there was automobiles parked there, but nothing unusual to have them parked there.

MR. DARROW: I ask to have that answer stricken out, your Honor, whether there was anything unusual. I asked whether they were parked. He said nothing unusual.

MR. TOMS: No, that is not what he says.

MR. DARROW: Read him that portion. I will ask to have it stricken out.

(The answer was read by the reporter.)

MR. DARROW: I ask to have the last part of that answer stricken out.

THE COURT: Just exactly what part, Mr. Darrow?

MR. DARROW: Nothing unusual to have them parked there.

MR. TOMS: That is responsive.

THE COURT: The answer may stand.

Q You say it was a usual thing for automobiles to be parked on Charlevoix?

A Yes, sir.

Q Both sides?

A No, one side.

Q Which side?

A North side.

Q Do you know whether there were any automobiles parked there that night, as you went up?

A I don't remember.

MR. TOMS: Keep your voice up.

Q If there were not, that would be the only night they were not parked, would it?

A Yes.

Q Do you know whether there were any automobiles parked around the corner of the schoolhouse on Garland?

A I never noticed.

Q You didn't notice anything about automobiles?

A No.

Q Or whether people were sitting in automobiles, or not?

A No. I didn't.

Q Do you know whether there were people on the schoolhouse yard as you went down?

A Yes.

Q How many?

A About fifteen or twenty.

Q Whereabouts?

A Well, they were scattered all over the yard.

Q Did you count them?

A No.

Q And you say fifteen or twenty is all there were on that schoolhouse yard?

A Yes.

Q Any in front besides that?

MR. TOMS: What do you mean, in front?

MR. DARROW: In the front of the schoolhouse.

A That takes in the schoolhouse and the yard.

Q You mean even including the sidewalk?

A Including those that were on the corner.

Q You mean on Garland?

A Yes.

Q Including the sidewalk on both sides, and including the yard. That is all there were?

A Both sides of what?

Q What? Both sides of the yard, Garland and Charlevoix, the schoolhouse yards, front on Garland and on Charlevoix, don't they?

A Yes.

Q Now, isn't my question plain? I say "including all the people that were on the schoolhouse grounds, and on the street or sidewalk, on Garland and Charlevoix next to the schoolhouse"?

A I don't know what was on Garland.

Q You don't. Well, including what they were on Charlevoix?

A Yes.

Q And on the grounds?

A Yes.

Q And how far up towards Charlevoix, -- towards Garland, sidewalk?

A Sidewalk.

Q Do you know what was on the sidewalk on Garland?

A No.

Q Didn't you go up as far as the corner of Garland?

A We were standing just about at the corner.

Q Who was with you?

A Mr. Grant.

Q Is that your partner?

A He is working for us.

Q Was he there with you all the time?

A Yes, sir.

Q And you stood there from the time you got down from your office until the shots were fired?

A Yes, sir.

Q What were you doing?

A Talking.

Q With Mr. Grant?

A Yes.

Q Anybody else?

A No.

Q What were you talking about?

A Oh, I don't remember just what we were talking about.

Q Haven't any idea?

A No.

Q Talking about the Sweet property?

A No.

Q Sweet?

A No.

Q And the policemen?

A No. We made a few remarks about them.

Q What was going on there?

A We didn't say much about them at all.

Q Kept still on that, did you, absolutely nothing to say.

Was anybody across the street from you on the --
(indicating)?

A On Garland? Anybody across the street on the west side
of Garland (indicating), and south of Charlevoix.

A JUROR: We can't see what you are doing there.

MR. DARROW: Over here.

Q Was there anybody across the street on the west side
of Garland, and south of Charlevoix, or don't you know?

A I do_n't know.

Q Didn't look, is that right?

A I didn't pay any attention.

Q No. Do you know this property (indicating)? Do you
know how it is occupied, how it is occupied? This property
I referred to on the west side of Garland, and south side
of Charlevoix?

A Yes.

Q What is it?
A Brick home on the corner.

A JUROR: A little louder.

Q A number of houses along south of it?

A Yes, sir.

Q Didn't look there?

A No.

Q Did you look north on Garland?

A No.

Q You kept your eyes steadfastly fixed on the Sweet place, didn't you?

A No, sir, I didn't, but I didn't pay any attention to people on the other side of the street.

Q Did you pay any attention to people on any side?

A No.

Q No more than you did when you saw them go out of the hall the night of the Waterworks meeting?

A That is it.

Q Just the same. And you didn't pay any attention to who was going or coming or how they were going and coming, or whether they were unloading there?

A No.

MR. TOMS: What do you mean by "unloading"?

MR. DARROW: Whether people drove up in automobiles and others got out.

MR. TOMS: That hasn't been asked him, of course.

Q Did you see anybody go into the Sweet house while you were standing there?

A No.

Q About how many policemen did you see around there?

A The south side there were three or four.

Q Now, wait a minute, on the south side of Garland?

A Yes.

MR. TOMS: No, no.

A No, on the south side of Charlevoix.

MR. DARROW: Charlevoix. Whereabouts? If you didn't keep me straight, I don't know where I would be.

Q Which way from Garland ?

A Well, there was two of them east of Garland, and there was two standing on the corner.

Q Yes. Were they moving around?

A Two east of Garland were.

Q What were they doing?

A People stop and congregate, and they would move them on.

Q You saw them do that?

A Yes.

Q What?

A Yes, sir.

Q During all the time that you were there?

A Yes, sir.

Q Up to the time that the shooting took place?

A Yes, sir.

Q Now, you saw shots -- you saw the fire from what you assumed were shots, coming out of the front window?

A Yes, sir.

Q And from between the house occupied by Dr. Sweet, and the

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house next door, north?

A Yes, sir.

Q Shooting all at once?

A Why, they seemd to be.

Q Did you estimate how long it took?

A No, I didn't.

Q Less than an hour, I suppose?

A Oh, yes.

Q You couldn't very well estimate how many shots there were?

A No, I couldn't.

Q And as quick as they began shooting, you left?

A Yes, sir.

Q Walked away moderately, or run?

A No, just walked.

Q And you went to your office?

A Yes, sir.

Q And stayed there?

A Yes, sir.

Q What time did you go home?

A About eleven o'clock.

Q What?

A About eleven o'clock.

Q Partner there too?

A No, he wasn't.

Q Mr. Grant stayed with you?

A Mr. Grant did.

Q Anybody else come in?

A No, I don't think there was.

Q That is all.

MR. TOMS: That is all.

Q What is your partner's name?

A Connolly.

Q Edward F. Connolly?

A Yes, sir.

Q He made a speech at that meeting in the schoolhouse, didn't he?

MR. TOMS: Wait a minute. Wait a minute.

Q Edward F. Connolly is his name, is it?

A Yes, sir.

Q And he never talked to you about whether they wanted colored people there, or not?

MR. TOMS: Answer it yes or no.

A No, no.

Q How long have you been his partner?

A Two years.

Q Where does he live?

A On St. Clair.

Q How near to your house?

A How near to what?

Q How near to your office?

A About a block.

Q Was there another meeting there the night after the shooting?

MR. TOMS: Objected to as immaterial, the night after the shooting.

MR. DARROW: I will withdraw it now. Let it go at that. That is all.

(Witness excused.)

L A W R E N C E G R A N T, was thereupon called as a witness on behalf of the People herein, and, having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Were you with Mr. Alif in the vicinity of Garland and Charlevoix on the night of the 9th of September of this year?

A Yes, sir.

Q Did you go to the office that night?

A Yes, sir.

Q With him?

A Yes sir; not exactly with him; we were both at the office.

Q You met at the office?

A We met at the office.

Q Did you go over on the corner of Charlevoix and Garland with him?

A Yes, sir.

Q About what time did you go over there?

A It would be about ten minutes to eight.

Q Where did you stand?

A On the southeast corner.

Q You and Alif went over on that corner and stood where?

A On the southeast corner.

Q What did you see?

A I just seen a few people around there and policemen.

Q What happened?

A While we were standing there I seen the flash of shots coming out of the window of the house on the northwest corner.

Q Which side of the house?

A The flashes appeared to me to be from the front, and from between the two houses.

Q Which floor?

A The second floor.

Q How many?

A Why, there was two different volleys. There was, I should say about altogether between 20 and 25 shots.

Q How long between the volleys?

A Well, a very short space of time.

Q Can you estimate it in seconds or minutes?

A Well, I should say about 30 seconds.

Q About 30 seconds?

A Yes, sir.

Q After the shooting, what did you do?

A We moved away from there. The police moved everybody back.

Q How long had you been over there before the shooting?

A Why, about 25 minutes.

Q Did you see any police officers around there?

A Yes, sir.

Q Where were they located?

A All around there, in all corners. They were moving the people back.

Q I cannot hear what you say. Where were they?

A There was police all around there, you see.

Q Tell us where they were located, as nearly as you can?

A Well, they were practically on every corner, insisting on the people moving back.

Q Did you go up Garland Avenue at all north of Charlevoix?

A No, sir, I did not.

Q Or south?

A No, sir, I did not.

Q South of Charlevoix?

A No, sir.

Q Did you go any further west than the school?

A Than the school?

Q Yes.

A I was over on the other corner, yes, sir.

Q Which corner?

A On the southwest corner.

MR. DARROW: You can speak a little bit louder, couldn't you, if you tried hard?

A Yes sir.

MR. DARROW: Suppose you were selling real estate; try it that way.

Q You went over on the southwest corner?

A I was by myself when I went over there.

Q Oh, Mr. Albee did not go with you?

A He was not with me then, no, sir.

Q That is the corner where the apartment building is?

A Where the apartment building is.

Q Were there any officers over there?

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A Yes, sir.

Q Can you estimate the number of people that were within your view while you were on that corner?

A Oh, I should say about 50 or 60 people.

Q Were there some people around the school house?

A Yes, there was.

Q There is a strip of sod along the sidewalk, is there not?

A Yes, sir.

Q With a fence back of it?

A Yes, sir.

Q The school house fence sits back from the curb?

A The fence, I believe is south of Charlevoix. I was not near the fence.

Q But there is a strip along inside of the sidewalk, a strip of sod?

A Yes, sir.

Q You did not see anything happen after the second volley; you left immediately?

A We had to leave; the police chased the people back from that corner.

Q While you were standing there for about 25 minutes, what were the police doing?

A Why, they were telling the people to move away from the corners there.

Q Were the police themselves moving about?

A Yes sir.

Q Did you see any crowd or gang or group of people?

A There were three or four grouped together in different

places.

Q Did you see any group of people, any group of more than three or four people?

A I do not think I did, sir.

Q Did you see anybody carrying arms?

A No, sir, I did not, outside of the police.

Q Stones or sticks?

A No, sir.

Q Or clubs?

A No, sir.

Q Did you see or hear anything thrown towards the Sweet house?

A No, sir.

Q Or the occupants?

A No, sir.

Q Did you see or hear anything thrown at it?

A No, sir.

Q Or toward it?

A No, sir.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q You did not search anybody for arms, did you?

A No, sir.

Q Or clubs?

A No, sir.

Q Or stones?

A No, sir.

Q Nobody exposed any of those things to you?

A Not to my view they did not.

Q What?

A Not in my view they did not.

Q Kind of dark anyhow, wasn't it?

A Not black.

Q What?

A It was not black dark; it was light.

Q You have seen it darker?

A Yes, sir.

Q Well, Mr. Grant, how long have you been working where you are?

A About 15 or 16 months.

Q How long have you been in the real estate business?

A About six years.

Q Where do you live?

A St. Clair and Charlevoix.

Q What?

A 2676 St. Clair.

Q Married man?

A Yes, sir.

Q Own your house there?

A No, sir.

Q Whereabouts is that with reference to Charlevoix?

A From Charlevoix?

Q Yes.

A The second door from Charlevoix.

MR. TOMS: South.

Q Is it south?

A South, yes, sir.

Q That is your house, isn't it?

A No, sir, that is the office.

Q I mean your house?

A That is where I am staying right at the office now.

Q You are living there?

A Yes, sir.

Q What is the name of your firm?

A Conley-Alef.

Q Where does Mr. Conley live?

A On St. Clair Avenue.

Q How near the office?

A About a little over a half a block.

Q Do you belong to the Water Works Improvement Association?

A No, sir.

Q Ever attend any of its meetings?

A No, sir, I have not.

Q Do you remember the meeting that was held out on the lawn of the school house building?

A I heard of it.

Q You did not see it?

A I did not see it, no, sir.

Q You were not around there?

A No, sir.

Q When did you hear that any colored family was coming into the neighborhood?

A I believe it was on the Monday before the shooting.

Q You did not hear of it at the time that Dr. Sweet bought the place?

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A No, sir, I did not.

Q Did you know who owned that place before Dr. Sweet?

A No, sir, I did not.

Q Did you know who lived there?

A No, sir, I did not.

Q Is there any other place in the neighborhood that you do not know the occupant of?

A Yes, there is lots of places in the neighborhood that I don't know the occupant of.

Q Did you ever hear the question discussed of who owned and occupied that place before Dr. Sweet came there?

A No, sir, I did not.

Q Never heard anybody mention it?

A Not before the shooting I don't believe I did.

Q You have since?

A I have heard people remarking who owned it before.

MR. TOMS: Just a minute.

Q You have heard it discussed; that is all I am asking you.

Now, on this particular night which was the 9th of September, do you remember the night?

A Yes, sir.

Q What time did you get to the office?

A It would be about 7:30.

Q Was anybody there when you got there, or don't you know?

A I am not sure whether Mr. Alef was there then or not, or whether he came in a little later.

Q That you cannot tell?

A I cannot say for sure.

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Q Did you do anything there that night, any business?

A No, sir.

Q You and Mr. Alef went up to the corner of this street together?

A Yes, sir.

Q Who suggested it?

A I did.

Q What did you go for?

A I drove by there and seen some people by there and my curiosity took me over.

Q You went up to see what was going on in reference to the Sweet house, didn't you?

A Yes, sir.

Q Mr. Alef went along?

A Yes, sir.

Q So you could both see what was going on?

A Yes, sir.

Q You got no farther than the corner, did you, at any time?

A Not while we were together.

Q Did you before the shooting?

A Before the shooting I had been over by the apartment side.

Q What?

A I had been over by the apartment side.

Q When?

A Before I went over with Mr. Alef.

Q When you and Mr. Alef were there you got no farther than the corner, is that right?

A I don't believe we did, sir.

Q You saw people and you saw policemen?

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A Yes, sir.

Q The policemen were keeping the people back?

A Yes, sir.

Q Keeping them moving and disbursing them when too many of them got together?

A If you were standing there, they told you to move on.

Q They were keeping them away from that corner and from going up Garland, weren't they?

A Yes sir.

Q You learned that you could not go any further, didn't you?

A I learned because I drove through there, and they turned me back.

Q When did you drive through there and drive back?

A When I was coming to the office.

Q How long before was that?

A About 20 minutes before I went over there.

Q Whereabouts did they turn you back?

A From Charlevoix.

Q Did you drive up to Charlevoix?

A I was coming by Garland.

Q You mean that you were going north on Garland?

A No, sir, I was coming east on Charlevoix.

Q You were coming east of Charlevoix?

A Yes, sir.

Q And they stopped you at Garland and would not let you drive any farther?

A They would not let me go farther.

Q What did you do then?

A I went back the other around by Bewick.

Q You knew at that time that they would not let you pass by there?

A Yes, sir.

Q You found it out again when you got down there with Alef?

A Yes, sir.

Q They were keeping everybody back from there?

A They were trying to.

THE COURT: We will take a recess at this time.

(R E C E S S)

Q (By Mr. Darrow, continuing): You got down to the corner there, and you said there were about 50 people around you?

A No, sir, I said about 60.

Q What?

A I said about 60.

Q Oh, you said 60?

A Yes.

Q That was right around that corner?

A No, sir, spread around in my view.

Q How far did your view extend?

A Why, I could see all four corners.

Q All four corners right around there?

A Yes, sir.

Q Did you see around the corner on Charlevoix, south - Garland south?

A I could a little piece, yes, sir.

Q What?

A Yes, sir, I could see a little piece south.

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- Q How far could you see?
- A Why, about a quarter of a block.
- Q A quarter of a block?
- A Yes, sir.
- Q Were there people there?
- A There was people moving along there. I would not say they were standing there; they were moving back and forth.
- Q They were moving back and forth?
- A Yes, sir.
- Q Could you see across the street on Garland south of Charlevoix?
- A That is where I just said I seen them.
- Q What?
- A That is where I was referring to in answer to that question.
- Q I am speaking now of the west side of Garland?
- A Why, yes, sir, I could see the west side of Garland.
- Q And the east side of a quarter of a block?
- A About a quarter of a block.
- Q How far?
- A For about a quarter of a block, yes, sir.
- Q Could you see the whole length of the school house yards on Garland?
- A I could very near see the whole length of it.
- Q How many people do you think there were on the school house yards and the side walk around the school house yards?
- A I should say about 15 or 16 people.
- Q Where were the rest of this bunch?
- A Spread around in the district.
- Q What district?

A Around the four corners on Charlevoix and Garland.

Q But whereabouts were they?

A On all sides of the street; there was a few people around there.

Q Have you talked to the officers about this case? You have, haven't you?

A No, sir, I have not.

Q None of them?

A No, sir.

Q Have you talked to Mr. Johnson?

A No.

Q Who have you talked to?

A I have not spoken to Mr. Johnson.

Q But who have you talked to?

A To nobody.

Q Never talked to anybody about this before you came onto the stand?

A No, sir, not of the case, I have not.

Q What?

A Not referring to the case, I havenot, sir.

Q To no one from the prosecuting attorney's office, or to any of the officers?

A No, sir, I have not spoken to nobody about the case.

Q You came here without talking to anybody?

A I got a subpoena to come here.

Q You came here and you have never talked with anybody since that night, is that right?

A No, sir, I have not.

Q How many were on the west side of Garland and south of Charlevoix?

A On the west side of Garland and south of Charlevoix?

Q Yes.

A I could not say for sure, sir.

Q Were there any?

A There were people along there, yes, sir.

Q Have you any idea of how many?

A Not to any definite number, no, sir, I have not.

Q There was nobody on the northwest corner where the Sweet house is?

A There was police there, sir.

Q Anybody but police?

A Not that I noticed.

Q Was there anybody across in front of the grocery store?

A There was people over there, yes, sir.

Q How many?

A I could not say for sure.

Q Any idea?

A Not down to the number, no, sir.

Q Were there any people inside of the school house yard or don't you know?

A I was not down by the school, house yard.

Q You do not know whether there was anybody there or not?

A No, sir, I do not.

Q You never looked in there?

A No, sir, I was not down there.

Q Were there any automobiles parked around there?

- A Yes, sir, there was.
- Q Whereabouts?
- A On Garland.
- Q Whereabouts on Garland?
- A On the northwest - on the north side- on the west side rather.
- Q On the west side?
- A Yes, sir.
- Q South of Charlevoix?
- A Yes, sir.
- Q How many?
- A About three or four.
- Q Was there anybody in them?
- A I believe one of them was a police car. I believe there was a policeman sitting in one car; he just drove up there.
- Q Anybody in any other one?
- A Not that I seen, sir.
- Q You don't know when they came or when they went away?
- A No, sir.
- Q Or how they went away?
- A No, sir.
- Q You were mixing with the people there?
- A No, sir, I was standing with one fellow.
- Q Did you get close to him?
- A I was standing with one man, Mr. Alef.
- Q Could you hear what anybody said?
- A I was not paying attention to no one.
- Q Couldn't you hear them?

A I probably could if anything had been passed there that -

Q But, you could not -

MR. TOMS: Let him finish his answer.

A I probably could have heard them if anybody had passed a remark in my hearing.

Q I think that is logical. Do you think the reason you did not hear any of them was because they were too far away, or because you were not paying any attention?

A I was not paying any attention, sir.

Q You could have heard them if you had paid attention?

A I could if they were speaking, sir.

Q You do not know whether they were speaking or not?

A I could not say, because I was not listening to them.

Q You cannot recall one word said by anybody while you stood there, can you?

3 A No, sir, I cannot.

Q You did not hear Dr. Sweet's name mentioned?

A No, sir, I did not.

Q Or the people who moved in there?

A No, sir.

Q Or the policemen?

A No, sir.

Q How many policemen were around there?

A There was quite a number of police around there.

Q Any idea how many?

A No, not to the number; I could not say.

Q Could you guess at it?

A I should say there was 20 or 30 around there anyway.

Q Would you say there were 20 or 30 policemen there?

A Yes, sir, that is in uniform. Of course, I may have seen the same policeman two or three times.

Q There might have been just one running around there?

A Oh, there was more than one.

Q Well, what do you think, do you think there were 20 or 30 policemen around there?

A I think there was, sir.

Q Could you estimate the policemen as well as you could the others?

A I probably could, sir, yes, sir.

Q Did you try to estimate the number of policemen or people while you were standing there?

A Well, policemen stand out more in your mind than the ordinary public will, because they are dressed in their uniforms.

Q So one policeman might look like five compared with the ordinary public?

A He might if he passed you several times.

Q You were not there to find out how many people were there?

A No, sir, I was not.

Q Certainly not to try to find out what they were saying?

A No, sir.

Q Or why they were there?

A My curiosity took me over there to see why they were there.

Q It was not your curiosity that took you away?

A No, sir.

Q Do you remember where you were the night before?

A The night before?

Q Yes.

A No, sir, I do not.

Q That night has left no impression on your mind?

A Well, I was at several places; I remember some of the places where I was.

Q What place do you remember?

A I was at my mother-in-law's for one place.

Q You would remember that?

A Yes, sir.

Q Where does your mother-in-law live?

A Harper and Mt. Elliott.

Q What?

A On Harper Avenue near Mt. Elliott.

Q How far away?

A The exact number is 3723.

Q I cannot tell by that. How many blocks were you -- about --

A It is less than a block.

MR. TOMS: Less than a block from where?

A. From Mt. Elliott.

MR. TOMS: How far away from this Garland and Charlevoix location?

A Why, that is three miles away from there.

MR. TOMS: Is that what you wanted?

MR. DARROW: That is what I wanted.

Q Your mother-in-law was not involved in this matter in any way?

A No, sir, but you asked me about it.

Q She is just your mother-in-law?

A Yes, sir.

Q You do not know whether, aside from the policemen in uniform, there were policemen there who were not in uniform?

A That I could not say, sir.

Q You only know that they were police by the way they were dressed?

A Yes, sir.

Q Were you over at that grocery store there the nightbefore?

A No, sir, I was not.

Q Or at any time that night?

A No, sir.

Q That is all.

MR. TOMS: That is all.

(Witness excused)

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O T T O W. L E M H A G E N, was thereupon called as a witness on behalf of the People herein, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Were you on the corner of Garland and Charlevoix on the night of September 9 of this year?

A Yes, sir.

Q What time did you get there?

A About 7:30 P.M.

Q About 7:30?

A Yes, sir.

Q Did you drive or walk there?

A I walked there.

Q How near to that corner do you live?

A I live two short blocks west of there on Hurlbut Avenue, south of Charlevoix about six doors.

Q When you got there, where did you take your stand?

A On the southeast corner of Charlevoix and Garland.

Q Did you see anyone whom you knew there?

A I met Inspector Schuknecht, Lieutenant Shellenberger and Superintendent Sprott.

Q All police officers?

A Yes, sir.

Q What did you do in the neighborhood? Did you stand on that corner or did you move about?

A I went over there along about 7:30 looking for my boy. He usually plays ball in the rear of the Howe School, But, he was not there. There were some other boys playing over towards St. Clair back of the school. So I stood around there awhile talking with the inspector.

Q Did you meet him there?

A Yes, sir, when the superintendent drove up in his car. Then I went back home, looking for the boy.

Q Were you there when the shooting occurred?

A I came back.

Q Then you came back?

A Then I came back along after 8 o'clock and stood there with Schuknecht and Shellenberger. The superintendent had gone away along about 7:30.

Q How long did you stay there when you came back the second time?

A Along about 20 or 25 minutes past eight I should judge.

Q How long a period of time?

A Well, I stood around there - you mean when I came back?

Q Yes, about how long before the shooting?

A Oh, ten minutes.

Q Then what did you see or hear?

A Why, there was some shots came out of the upper window on the Charlevoix Avenue side. There are four windows there, two small ones and two large ones. The shots that came towards us came out of the largest window of the two, west.

MR. DARROW: Wait a minute. Now, I object to that. He could not tell about what shots came, where they came from to him. He could tell where he saw a gun fired, and what came near him.

MR. TOMS: Your Honor, this is a matter for cross examination.

MR. DARROW: No, I don't think it is. I don't think that he could say that any shots were from any particular place or came near him, or how far near him. Of course, it may amount to the same thing after all, but he is a policeman and ought to know -

MR. TOMS: After all what?

MR. DARROW: After all, he is a policeman, and he ought to understand the rules of evidence.

MR. TOMS: No, he is not.

Q (By Mr. Toms): You are special officer with the Michigan State Telephone Company?

A Yes, sir.

MR. DARROW: In either event he can say as to where the shots came from, what he saw as to that, and what he knew as to where the shots went to. That is all.

MR. TOMS: That is all he has said.

MR. DARROW: No, no. He said the shots which came from there went past him.

THE COURT: Will you read the question and the answer, Mr. Connolly?

(The question and answer were thereupon read by the Reporter).

THE COURT: That answer may stand.

Q Did you see any shots from any other part of the house?

A From the Garland Avenue side, from the attic.

Q The attic or the second floor?

A The second floor.

Q I assume that you are talking about the Sweet house on the northwest corner?

A Yes, sir.

Q Is that true?

A Yes, sir.

Q Could you see the flashes of gun fire from both places that you have testified to?

A Yes, sir.

Q How many shots did you hear fired, as nearly as you can estimate it?

A All told I imagine about 15 or 16 shots, to the best of my recollection.

Q Did they come in one volley, or were they fired separately?

A One volley.

Q What did you do after you heard the shots?

A I crossed the street. There is an apartment house on the southwest corner, and there is a hedge around that apartment house. I went south, back of the apartment house, and through the alley home.

Q That is, through the alley south of Charlevoix?

A I had to go through back of the apartment house, and then I went into the alley, and then back on Charlevoix and over to Hurlbut.

Q The apartment house is on this corner (indicating)?

A Southwest corner.

Q This is the southwest corner (indicating)?

A Yes, sir.

Q You went in between the apartment house and the next house to it?

A Yes, sir.

Q Back to the alley running south from Charlevoix?

A Yes, sir.

Q And then up to Charlevoix?

4 A And then west on Charlevoix and over to my house.

Q Then you were in a position to observe the general situation around that corner for at least 15 minutes?

MR. DARROW: I object to the question. He said where he was. he

Q Did you observe, if you were in a position to, the situation around that corner for about 15 or 20 minutes before the

shooting?

A Yes, sir.

Q Did you see any other police officers than those that you have mentioned?

A There was one in the rear, or at the alley of the Sweet home, and there was, I believe, three or four on Garland.

Q Which side?

A On the north side of Garland.

Q No. Garland does not run - - it is not north and south there?

A Oh, I mean on the west side of Garland.

Q On the west side of Garland?

A Yes, sir.

Q That is the side the Sweet house is on?

A Yes, sir.

Q Where else, if any?

A Well, there was - he detailed one man down to Waterloo and one man to Goethe to divert the traffic.

Q Who do you mean by "he"?

A Inspector Schuknecht.

Q Did you see any officers on the east side of Garland?

A Yes, sir, at the grocery store at the corner.

Q Were there any on Charlevoix on the south side that you saw?

A At the alley on the south side, at the rear of the apartment.

Q At the rear of the apartment?

A At the alley right there (indicating). There was one man

there.

Q That would be here (indicating)?

A Yes, sir.

Q One man there?

A Yes, sir. Where is the Sweet house?

Q Right here (indicating).

A Yes, that is the alley. There was one there and one over there at the grocery store.

Q Here (indicating)?

A Yes, sir.

Q You said how many in front of or around the Sweet house?

A I saw one walking up and down there.

Q In front of the Sweet house?

A Yes, sir.

Q You and Inspector Schuknecht, Lieutenant Shellenberger and Superintendent Sprott were on this corner (indicating)?

A We were on the southeast corner of Charlevoix and Garland.

Q Did you see any crowd of people anywhere in the neighborhood?

A Oh, there was a group of people here and there. There was some in front of the grocery store.

Q How many people in the largest group that you saw?

MR. DARROW: If he knows?

Q That you saw?

MR. DARROW: No. He might not have paid attention to it, or made any estimate. I think the proper way is to ask him if he can make an estimate or if he knows?

THE COURT: Where that objection is raised, as it

has been heretofore, on both sides, you ought then to ask if he knows.

MR. TOMS: Is the question objected to?

MR. DARROW: I object to it because he is not asked whether he knows or observed how many there were. I think that should be the first question.

MR. TOMS: Well, I have asked the witness to testify from his knowledge. I assume that he won't unless he has knowledge.

MR. DARROW: I think the objection is good.

THE COURT: This question has been raised several times, and I will advise both sides now that I will require, where it is raised, that counsel ask "Do you know?" "Could you make an estimate?" Then let him answer.

MR. TOMS: Maybe he has exact knowledge and does not have to estimate.

Q Do you know how many people were in the largest group that you saw?

A About 15.

MR. DARROW: Wait a minute. Well, I will let it go.

THE COURT: All right.

Q That is so eminently satisfactory to counsel that he withdraws his objection.

MR. DARROW: Yes, it is so much better than the other witness.

Q Where was that group?

A On the east side of Garland, north of Charlevoix.

Q How far north of Charlevoix?

A Oh, I would say five or six hundred feet,

Q Five or six hundred feet?

A Yes, sir.

Q That block, it appears in evidence, is 1040 some feet long from Charlevoix to Goethe. With that information, give us your best estimate of where you saw that group of about 15 people?

A Between the corner of the grocery store north up about half the block.

Q About half the block?

A Walking up and down.

Q Was it a group of people?

A Well, there may have been four or five here, and four or five there.

Q My question, Mr. Lemhagen was as to any one group that you saw?

A The group I speak of?

Q Yes.

A It was about in my estimation, about 15 people.

Q Where were they?

A They were north of the grocery store on the west side- or the east side of Garland.

Q Where were they with reference to the sidewalk or the lot line or the street?

A They were on the sidewalk.

Q They were on the sidewalk?

A Yes, sir, and on the lawn.

Q How long did you see that group?

A During the time I was there, the first time and the second time.

Q What were the officers doing in the neighborhood?

A The officer at the Sweet home, he was at the alley standing there, and at the apartment house, there was an officer there just standing.

Q Yes. Were there any other groups of people that you noticed anywhere else?

A There were people on Charlevoix at Bewick.

Q That is a block away?

A Yes, sir.

Q I mean around this corner?

A Oh, no, not that I saw.

Q Did you see any of the officers speak to the citizens?

A No, sir.

Q Did you hear either Inspector Schuknecht or Lieutenant Shellenberger give any orders to policemen?

A No, sir.

Q Was there any group over on the west side of Garland near the Sweet house?

A I did not see any.

Q In all of the time that you stood there?

A No, sir.

Q Did you see anyone who was armed?

A No, sir.

Q Either with fire arms, clubs, or missiles of any kind?

A No, sir.

Q Did you hear any threats during that time directed to the

Sweet house or the occupants?

A No, sir.

Q Did you see anything thrown toward or at the Sweet house?

A No, sir.

Q Were there people around the school where you were standing on the grass, around the edge?

A They were back off the street on the lawn.

Q How many there?

A I couldn't say how many; just a few people; I couldn't fix that because my back was turned to that place.

Q You did not make any estimate then?

A No, sir.

Q And you cannot now?

A No, sir.

Q What did Inspector Schuknecht do when the shots were fired?

A He ran directly across the street to the Sweet home.

Q You don't know what he did after he got over there?

A No, sir.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q You live how far from this corner of Charlevoix and Garland; how far is your home from there?

A Garland. Then comes Bewick. Then comes Hurlbut. I live south of Charlevoix, on the east side of Hurlbut.

Q In the first block?

A Sir?

Q In the first block south of Charlevoix?

A Yes, sir, about six doors south of Charlevoix, on the east side of the street. I mean on the west side of the street; on the west side of the street.

Q You have lived there some time, have you?

A 14 years.

Q What is your position, what do you do?

A I am special agent for the Michigan Bell Telephone Company.

Q What kind of an agent?

A Sir?

Q What kind of an agent are you?

A Investigator.

Q How long have you had that position?

A 19 years; it will be 19 years next September.

Q Do you know anything about this Water Works Improvement Association?

A No, sir.

Q You went up there looking for your boy?

A Yes, sir.

Q What time did you go up?

A The boy?

Q No, I don't mind that. What time did you go looking for him?

A About 7:30.

Q Any special reason why you went up there to look for him?

A He usually played ball right there back of the Howe School grounds.

Q Was there any reason?

A No.

Q You always go up and look for him when he is playing ball up there?

A Yes, sir, if he don't come home in a reasonable length of time.

Q What time?

5 A Oh, I usually wait until a little after 7.

Q What time did you go this night?

A At 7:30.

Q The boys play ball there until dark, don't they?

A Yes, sir.

Q Wasn't the reason you went there this night because you thought there might be trouble up there?

A I knew nothing about it.

Q Didn't you hear about Dr. Sweet moving in there?

A No, sir.

Q Where were you the night before?

A Home.

Q Did you hear about the policemen and the crowd there the night before?

A No, sir.

Q Never heard of it at all?

A No, sir.

Q Who is your brother-in-law?

A Inspector Schuknecht.

Q When had you seen Schuknecht before that?

A I could not say; possibly a week or ten days before, down at police headquarters.

Q You had not seen him the day before?

A No, sir.

Q You did not know that he was there all day before, on the 8th?

A No, sir.

Q On the 8th?

A No, sir.

MR. TOMS: Well, he was not.

MR. DARROW: He was there a considerable part of it.

MR. TOMS: No, he was not.

MR. DARROW: On the 8th Schuknecht was there all day or a considerable part of it.

MR. TOMS: No.

MR. DARROW: Well, you are mistaken, Toms.

MR. HAYES: On four different occasions he was there, we will admit that.

MR. TOMS: He went there and left right away.

MR. DARROW: No, he stayed from 3 o'clock in the afternoon until half past seven o'clock or 7:30 o'clock at night.

MR. TOMS: Well, what of it?

MR. DARROW: Well - - Allright. You may remember one way and I another.

Q Didn't you know he was there?

A When?

Q The day before?

A No, sir.

Q You did not know any policemen were there the day before?

A No, sir.

Q You started from your home to look up your boy at about half past seven?

A Yes, sir.

Q How old is your boy?

A He will be 13 next May.

Q You did not find him?

A No.

Q Then you went back home?

A I stood there for a little while and then I went back home.

Q Where did you stand?

A On the southeast corner of Charlevoix and Garland.

Q You talked with your brother-in-law?

A I saw Inspector Schuknecht there the first time and Shellenberger and Superintendent Sprott.

Q You knew then why they were there, didn't you? You learned then why they were there.

A I learned after.

Q Didn't you learn why they were standing there, while you were there?

A When Superintendent Sprott drove up I found out why they were there.

Q You talked to your brother-in-law before that though, before Sprott drove up?

A They came together, Shellenberger and Schuknecht came along Garland, and then the superintendent drove up.

Q How long did you stand there before you went home?

A Oh, about 20 minutes, I presume.

Q It would be close to eight o'clock when you went back home?

- A Yes, sir.
- Q Then you went back home and came back again?
- A My boy was not home then, so I came back again. I later found out that he was playing - he was not playing at the school at all, but he was playing in an alley in the rear of my home, near Cadillac.
- Q You found when you went back home that he still had not got home?
- A And then I came back.
- Q Then you came back?
- A Yes, sir.
- Q Still looking for him?
- A Yes, and that was after eight.
- Q You did not go anywhere else to look after him, or look for him, did you?
- A No, sir.
- Q About what time did you get back there?
- A The second time?
- Q Yes.
- A Ten or fifteen minutes past eight.
- Q Where did you stand then?
- A On the southeast corner of Charlevoix and Garland.
- Q In the same place that you were before?
- A Yes, sir.
- Q You came back past the corner of Bewick, didn't you?
- A Came back where?
- Q Did you pass the corner of Bewick Street?
- A Oh, yes. I had to, coming down Charlevoix.

Q There were people there, weren't there?

A At Bewick?

Q Yes.

A Yes, sir.

Q And policemen there?

A There was a policeman at the rear of the garage, and one at the apartment house.

Q Did you notice how many people were at Bewick Street?

A No, I paid no particular attention.

Q The policemen were keeping them back?

A Yes, sir.

Q So that they could not come east. Bewick Street is west of Garland?

A Yes sir.

Q They were keeping them from coming east?

A Coming east, yes, sir.

Q Towards Garland?

A Yes, sir, towards Garland.

Q But you passed the line and got through?

A There was not much of a line to get through.

Q You passed the policeman, didn't you?

A The policeman knows me. I know pretty nearly all of them. He knew me.

Q So he did not shoo you back?

A No, sir.

Q The policemen that you found upon the corner, what were they doing?

A Walking up and down.

Q Were they keeping the crowd back, or the people back?

A There was not such a crowd that-

Q I don't care whether there was such a crowd or not. Do you know -

6 MR. TOMS: Let him finish his answer. If it is not responsive, it can be stricken out.

MR. DARROW: He does not have to argue it.

MR. TOMS: I ask the court to permit the witness to finish his answer. If it is improper, it may be stricken out.

MR. DARROW: No. I object to that much of it, because it is not responsive to the question.

MR. TOMS: Counsel in his question mentioned crowd, and the witness has a right to say whether there was such a crowd.

MR. DARROW: I don't think so.

MR. TOMS: Oh, let us have a ruling.

THE COURT: Will you read the answer, Mr. Connolly?

(The answer is read by the Reporter).

THE COURT: I don't think the answer is responsive.

MR. TOMS: Then I object to the question as a conclusion.

MR. DARROW: I will withdraw my question.

MR. TOMS: So there we are now.

MR. DARROW: I would not quarrel with you, I could not if I tried to.

Q (By Mr. Darrow, continuing): Were there policemen around the corner keeping the people back?

A Yes, sir.

Q How many of them were engaged in that business, or doing that thing?

A How many?

Q Yes, as near as you can get at it, how many policemen?

A Four or five.

Q That was around the corner of Charlevoix and Garland?

A That was in front of the Sweet home, they were in front of the Sweet home on the Charlevoix side, at the alley west of Garland.

Q Were there any policemen on the other side of Charlevoix, that would be the south side, or on the west side of Garland, or around the corner, who were keeping the people back?

A There were no people on the west side of Garland and Charlevoix.

Q On the east side were there any? Were there any policemen keeping the people back on the east side of Garland?

A No, sir.

MR. TOMS: That is the north or south of Charlevoix you are referring to?

Q We will take the south first.

A There were no people there except on the lawn.

Q You say there were no people at the school?

A On the lawn; I don't know how many there were. My back was turned towards them.

Q You say there were none on the sidewalk at that time?

A Not when we were on the southeast corner.

Q There were none along the sidewalk on Garland south of Charlevoix?

A I did not see any.

Q Did you look?

A No, My back was in that direction.

Q You cannot see out of the back of your head?

A I was looking north.

Q Then you don't know how many people were there south of Charlevoix and on the east side of Garland?

A Not on the east side of Garland south of Charlevoix, no.

Q Or on the school house grounds?

A I don't know how many was on the school house grounds.

Q Where were you looking?

A Sir?

Q Where were you looking?

A I was looking north, north and northwest.

Q North and northwest?

A Yes, sir.

Q You were not looking straight west?

A I was looking just the way I am sitting now, looking northwest.

Q That would be looking toward the Sweet house, wouldn't it?

A Yes sir.

Q You were 15 minutes looking across to where the Sweet house was, or about that?

A About that.

Q I do not mean to hold you down to the minute. Nobody can tell. I don't expect you to. But, you were there in that

position until the shots were fired?

A Yes, sir.

Q You don't know whether there were any people directly across from the school house yards on the west side of Garland south of Charlevoix?

A There were a few people in front of the apartment, south of Charlevoix on the west side of Garland.

Q What were they doing?

A Walking up and down.

Q Do you know how many?

A No, sir.

Q Any policemen there?

A No, sir, not on that corner.

Q Any boys?

A No, sir, not to my knowledge.

Q All men?

A And a few women.

Q But you did not see any boys?

A No, sir.

Q 15, 16 and 17 years old?

A No, sir.

Q Were there any people on their porches there, or don't you know?

A Where?

Q In the same locality?

A Of the apartment house?

Q Yes, or the houses adjoining the apartment house?

A I did not notice any.

Q You did not notice that far down?

A No, sir.

Q All you noticed was around the apartment house?

A That is all I could see.

Q Could you see around the apartment house on the south side of Charlevoix?

A There is an entrance there.

Q I am speaking now about the apartment?

A Yes, sir.

Q There is an entrance to the apartment?

A Yes, sir.

Q Could you see around there?

A There was no one there.

Q Could you see around there?

A Yes, sir.

Q Was there anybody sitting on the steps?

A If there was, we could not see them from our corner, because the steps do not project out.

Q Well, then, you could not see there?

A No, sir.

Q Was there anybody on any part of the sidewalk on the south side of Charlevoix between Garland and the alley?

A I did not see anyone.

Q Will you say there was not?

A I could not say.

Q You could not say?

A No, sir.

Q You did not make any investigation to find out what was going on?

A Sir?

A I say, that you did not make any investigation to find out what was going on?

A When?

Q When you stood there for ten or fifteen minutes.

A The first time?

Q The second time?

A No.

Q Or any other time?

A After the shooting I went home.

Q I mean before the shooting?

A No, I did not make any investigation.

Q You did not try to find out how many people were there and what they were doing?

A No, sir.

Q As quick as the shots were fired, you started?

A Yes, sir.

Q You went down to the alley between the apartment building and the next house and went down through that alley to the next alley?

A I went back of the apartment house -there is no alley right alongside of the apartment, but there is one back there, and I went into that alley on the south side of Charlevoix, and then I came back and went west on Charlevoix.

Q You went through an opening you mean?

A Yes, south of the apartment.

Q It is not an alley?

A No.

Q But there was a space big enough for you to crowd through?

A Yes, sir.

Q Anyway, that is why you went through?

A Yes, sir.

Q Then you went into the other alley and went home?

A Yes, sir.

Q You say that the shots were all fired together, as nearly as you can get at it?

A Yes, sir.

Q About how much time was occupied in firing them?

A It sounded to me as one volley.

Q Then it was sort of instantaneous or within a few seconds anyway?

A Yes, sir.

Q Did it seem like they were all shot at once?

A That is the way it sounded to me.

7 Q Did you notice the people on the street immediately after the shots?

A No. I went home.

Q You did not see them as you went?

A No. The people were at the alley west of Garland on the south side of Charlevoix, at the alley.

Q There were people in there, were there?

A Yes, sir.

Q Where did they come from, do you know?

A I do not know, sir.

Q You got through all right?

A Yes, sir.

Q Were they going in any direction or standing?

A Standing. That was after the shooting.

Q It was immediately after, wasn't it?

A Yes, sir.

Q There were still people on Bewick Street, or didn't you get down that far?

A I had to go to Bewick.

Q Were they there still?

A No, there were not any at Bewick.

Q There were when you went up though?

A I did not notice any, just the ordinary traffic.

Q Haven't you just told me that there were people at Bewick as you came up?

A At the alley between Garland and Bewick on the south side of the street, and a policeman.

Q Were they at Bewick when you came up.

A The first time or the second time?

Q The second time?

A The second time?

Q Yes.

A There were people at the alley than there were before.

Q Didn't you state that the policeman there at Bewick was keeping them back from going to Garland?

A No; he was at the alley; I testified he was at the alley at the apartment house.

Q Oh, he was at the alley keeping them back, is that it?

A There was a few people at the alley.

Q I don't care whether there was a few or many. How many

do you call a few?

A I don't know how many people.

Q Did anybody ever mention a few to you before, before you testified here? Everybody seems to say a few. Did anybody mention it to you?

A Mention what?

Q So that you should say a few?

A There was no one told me. I am telling you the truth as to what happened.

Q Have you ever talked to anybody about this case since?

A I have not.

Q Have you spoken to anybody until you went on the witness stand?

A No, sir.

Q How did they get your name, do you know?

A I was subpoenaed.

Q How did they get hold of your name?

MR. TOMS: Do you know?

Q If you know?

A Yes, sir.

Q How did they?

A I was subpoenaed by the police department.

Q How did they know you were there?

A Billy Johnson knew I was there.

Q How did he know it?

A Because he gave me the subpoena.

Q Had you ever seen him before with reference to this?

A About this?

45

Q Yes.

A No, sir.

Q You do not know how he found out. You did not see Johnson down there did you?

A No, sir.

Q But the policeman that was keeping them back from going to Garland was at the alley?

A On the south side of Charlevoix between Bewick and Garland at the alley. There was no people on Charlevoix between the alley east of Bewick and Garland.

Q And the people were kept back from going to Garland when you went up there the last time. That is what you said, isn't it?

A The policeman was there to keep the people from going east on Charlevoix on the south side.

Q Yes. You said he was doing it, didn't you?

A I don't remember saying he was doing it.

Q Well, was he doing it?

A He was there for that purpose, I presume.

Q How do you know?

A Because there was no people going east.

Q Did you see him speak to anybody?

A No.

Q Nobody at all?

A No.

Q Was there anybody there when you went along?

A The second time?

Q The second time?

A Yes, sir.

Q That is all.

MR. TOMS: That is all. You can go out and consult your physician now.

MR. DARROW: (After speaking to Mr. Toms): Mr. Toms, you say that those (indicating) were found in the patrol wagon?

MR. TOMS: Yes, they were; that is, I am prepared to prove they were if necessary.

MR. DARROW: We will not put you to the trouble of getting the witness.

MR. TOMS: Then I will offer them in evidence.

MR. DARROW: I assume it was right afterwards.

MR. TOM: Yes, on the way down.

I offer in evidence 13 steel jacketed 38 cartridges for an automatic pistol; six 32 calibre lead nosed cartridges; eight 38 calibre lead nosed cartridges; seven lead nosed 38 Smith and Wesson Specials; and two steel jacketed Smith & Wesson Specials, calibre 38. The State is prepared to prove that these cartridges, comprising Exhibit 42, were found in the patrol wagon in which the defendants were being carried from the scene of the alleged crime to police headquarters.

(The offer by the prosecutor was considered Exhibit 42).

MR. DARROW: When were they found?

MR. TOMS: On the way down. They were found in the wagon room at police headquarters immediately after the

defendants were removed from the patrol.

MR. DARROW: You haven't the witness here.

Mr. Kennedy, what do you mean by "immediately."

MR. KENNEDY: The men were taken out of the cars that were driven down here to police headquarters, and the police officers there stepped into ^{the} wagon as they always do, and looked through the patrol, and they found these bullets in there.

MR. DARROW: Let that go in as part of the statement. You haven't got your witness here?

MR. TOMS: No.

MR. DARROW: We are willing to let them go in on the statement of the prosecuting attorney.

THE COURT: If there is no objection this exhibit will be received in evidence.

MR. DARROW: There is no objection.

THE COURT: It will be received.

MR. DARROW: If we want, for any reason, to talk to your witness, you will let us do it?

MR. TOMS: Yes.

MR. DARROW: We may want you to stipulate as to the distance from the street to the garage, Sweet's garage where Dible stood.

MR. TOMS: I think that is here.

MR. DARROW: I think it is here.

MR. TOMS: It was 125 feet.

There are certain measurements that may be stipulated on the record, and I will read them, and if

there are any corrections, you may make them.

The distance from the center of the front of the Sweet house to the center of the front of the Dove house on the opposite side of the street is 104 feet. The distance from the northeast corner of the garage to the spot where the deceased fell, is within ten feet of 200 feet, one way or the other.

MR. DARROW: All right.

THE COURT: Gentlemen, we will adjourn at this time. Because of the Armistice Day celebration, there will be no court this afternoon. We will stand adjourned now until 9:30 tomorrow morning.

(A D J O U R N M E N T)

AP 3:4

STATE OF MICHIGAN
IN THE RECORDER'S COURT FOR THE CITY OF DETROIT

THE PEOPLE
-vs-
OSSIAN SWEET,
et al.

Testimony taken before Judge Frank J. Murphy,
and a Jury, Friday, November 13th, 1925.

APPEARANCES:

Parties present as before.

VOLUME VIII.

ARTHUR WEINBERG
2334 E 68TH ST
CHICAGO 49 ILL

I N D E X

	Direct	Cross	Redirect	Recross
George Strauser	1170	1176		
James Sprott	1177	1182	1187 1189 1191	1188 1191
Lawrence Elick	1192	1202		
William Arthur	1205	1207		
Lawrence Elick (Recalled)			1209	1209
Walter Doran	1210	1216		
Ernest Stanke	1223	1228	1246	1246
Bert McPherson	1247	1253		
Roy Schaldenbrand	1255	1260		
Riley Burton	1266	1278		
William Grohn	1281	1287	1298	
William O. Burns	1299	1304		
Russell Wuebben	1307	1312		
Benton Hacker	1322	1325	1325	1326
William N. Johnson	1329	1368	1371	

Friday, November 13th, 1925.

9:30 o'clock A. M.

GEORGE STRAUSSER, called as
a witness on behalf of the People, being first duly
sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Your name is George Strauser?

A Yes, sir.

Q Live at 2914 Garland Avenue?

A Yes, sir.

Q Speak up just a little louder. Were you living there on
the day and night of September 9th, 1925?

A Yes, sir.

Q You are a roomer at that house, are you?

A I am.

Q What time did you get home that night?

A Oh, around six thirty or seven.

Q Where are you employed, Mr. Strauser?

A Murray Body.

Q After you came home, what did you do?

A Ate supper, and then sit around there.

Q Did you go outside of the house after you had dinner, supper?

A I did.

Q About what time, if you remember?

A Half past seven.

Q When you went outside, what did you do?

- A Sit on the porch.
- Q Did you sit on the steps of the porch or up on the porch proper?
- A Up on the rail.
- Q On the rail?
- A Yes.
- Q That was about 7:30?
- A Yes, sir.
- Q The house where you board at is directly across from the Sweet home, is it not?
- A It is.
- Q When you went out in front there, did you see any people in front of your house?
- A Yes, people walk up and down the street.
- Q Was there anybody else out on the porch, as you remember?
- A Mr. and Mrs. Dove.
- Q Have they a baby?
- A They have.
- Q Was the baby out at that time?
- A It was.
- Q Did you notice the Sweet house itself? You could see it from where you were sitting?
- A Why, sure.
- Q Did you see anybody around that house?
- A No.
- Q Did you see any policemen around the neighborhood?
- A Yes, sir.
- Q Where did you see the policemen?

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A They were around there on the street.

Q Did you see any around the Sweet house?

A Over on the corner of the street, yes, sir.

Q Were there any people next door to the house that you were at, that is, that flat north?

A Well, I never noticed whether there was any there, or not.

Q What were you doing on the porch besides sitting on the rail?

A Sitting there talking with Mr. Dove.

Q What kind of a night was it?

A Well - -

Q In reference to the weather?

A Good night, warm - -

Q Did any people congregate or collect in front of the Dove home there?

A No.

Q Did you observe whether or not any people collected in the house north of the Dove home?

A No.

Q You did not observe, or they did not collect, which is it?

A I did not observe.

Q Were you there when the shooting occurred?

A I was.

Q Just prior to the shooting, for, say, for about ten minutes, was there anything done up there in front of your house, up in the neighborhood, that attracted your attention?

A No, sir.

Q Did you see any stones or missiles of any kind thrown at

the Sweet house?

A No, sir.

Q Did you see anybody there around the neighborhood with arms or sticks, or stones or missiles, of any kind?

A No, sir.

Q What happened when the shooting occurred?

A I never noticed. I ran in the house.

Q You heard some shooting?

A I did.

Q Did you hear where that shooting came from?

A From across the street.

Q Did you see the flash of any guns or anything?

A I did.

Q Where did you see the flash?

A From the windows.

Q What windows?

A The upper.

Q ~~What~~ What house?

A Mr. Sweet.

Q When you say the upper windows, was that the front or the sides?

A At the front, facing Garland.

Q How many flashes did you see?

A Well, I couldn't tell.

Q Did they come from the same place, or from different parts of the front windows there?

A Well - -

MR. DARROW: If you know?

A The front window is all I noticed.

Q You then saw the ones?

A Yes, sir.

Q How many shots did you hear, if you remember?

A Oh, I couldn't hardly say, about ten.

Q Did the shots come in one, or did they -- were they separated?

A They were separated.

Q By that, what do you mean?

A Two different volleys.

Q Two different volleys. Well, were there two volleys?

A Yes, sir.

Q I mean the first volley, were the first volley of shots in rapid succession, or was there quite an interval between the shots from the first volley?

A No, first volley was together.

Q What did you do when the first volley went off?

A Went in the house.

Q Did you remain in the house?

A No, I came back out.

Q How long after the first volley was it that you heard the second volley?

A Oh, two minutes, something like that.

Q Where were you when the second volley was fired?

A Out on the porch.

Q Did you go in the house and come back out again?

A Yes, sir.

Q What did you do when you went in the house?

A After the first volley?

Q Yes.

A Well, I just went in the house.

Q Yes. You went in and came out?

A Yes.

Q How long were you out before the second volley occurred?

A I just got out there.

Q Did you know a man by the name of Leon Briener?

A No, sir.

Q What happened after the second volley, when you came out on the porch?

A Why, nothing. I went in the house and stayed there.

Q Well, when you came out the second time, did you see any people around the Dove house there?

A Yes, there were people congregated then.

Q How many shots did you hear in the second volley, if you remember?

A Oh, about the same as the first, as nearly as I can --

Q Did you see anybody injured there?

A No, sir.

Q Did you see a man laying on the ground alongside of the Dove place?

A No, sir.

Q How soon after the second volley did you go into the house?

A Right after the second volley.

Q Did you remain in or come out later on?

A I remained in.

Q Were you armed that night yourself?

A No, sir.

Q Did you have any stones of any kind in your hand?

A No, sir.

Q Did you throw any stones?

A No, sir.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q When you came down the evening, you say it was seven or half past?

A Something like that.

Q And you stayed there until the first shots were fired?

A Yes, sir.

Q You didn't pay any attention to whether there were any people congregated in front of the house next door to you, or not?

A I never paid any attention.

Q You didn't pay any attention to whether people congregated in the house in front or - -

A No, sir.

Q You didn't see any boys in the alley that came out and threw stones at the house?

A No, sir.

Q That is all.

MR. KENNEDY: That is all.

Q Of course, you didn't see Briener there?

A No, sir.

(Witness excused.)

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J A M E S S P R O T T; called as a witness
on behalf of the People, being duly sworn, testified
as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Your name is James Sprott?

A Yes, sir.

Q Deputy superintendent?

A Yes, sir.

Q Of the Detroit Police Department. How long have
you been a police officer?

A About 29 years.

Q Do you know where the vicinity of Garland and Charlevoix
is, in the city of Detroit?

A I do.

Q Do you know particularly where the Sweet - - the home
of Dr. Ossian Sweet is?

A Yes, sir.

Q Were you in that vicinity on the 9th of September, 1935?

A I was.

Q What time did you go there?

A About eight o'clock.

Q In the evening?

A That evening, yes, sir.

Q When you got there, who did you see there?

A Inspector Schuknecht.

Q And where was he at that time?

A Standing on the corner of the - - southeast corner.

Q Southeast corner of Garland and Charlevoix?

A Yes, sir.

Q Do you know Lieutenant Paul Schellenberger?

A Yes, sir.

Q Did you see him that night?

A I did.

Q Where did you see him?

A Same corner.

Q And how long did you remain at the corner?

A About fifteen, twenty minutes.

Q What were you doing while you were there?

A Just observing the conditions.

Q You observed the conditions, did you?

A Yes, sir.

Q Was there anyone around the Sweet home at that time?

A Nothing, except police officers.

Q Police officers. Did you see police officers around the Sweet home?

A Yes, sir.

Q Whereabouts?

A One in the front and one in the rear and one across the street on Garland.

Q Did you see any police officers on the other corners there?

A Yes, sir.

Q Whereabouts?

A On Charlevoix too, opposite the Sweet home, on the south side of the Street, Charlevoix.

Q Did you remain at the southeast corner all the time that

you were there?

A No, I didn't remain there all the time. I walked around and looked over the layout.

Q Just where did you walk?

A Walked back to the alley, see how it was protected from the alley.

Q Isn't that the alley in the rear of the Sweet home?

A Yes, sir.

Q Did you see anybody in that alley?

A Two policemen.

Q Did you see any citizens there?

A I did not.

Q What about the stretch of half a block on the south side of the Sweet home, along Charlevoix?

A Everything was in good condition.

Q Were there any citizens congregated around the Sweet home?

A No, sir.

Q Did you observe the conditions on the south side of Charlevoix opposite the Sweet home?

A I did.

Q Were there any people on the sidewalk there that you remember?

A Just a few passing by.

Q Did you observe the steps leading into those apartments?

A Yes.

Q Did you see any people there?

A There was some people sitting on the steps.

Q Were the steps crowded, or not?

A No.

Q Did you observe the corner that you were standing at with Inspector Schellenberger - - Inspector Schuknecht, that is, the school corner, that is, the school corner, were there any people congregated there?

A No, sir.

Q Did you see the northeast corner where the grocery store is?

A Yes, sir.

Q Did you see up Garland Avenue to these particular homes in back of the store there?

A Yes, sir.

Q How many people, if any, did you see along Garland Avenue?

A There was a few sitting on the steps of the houses, back of the grocery store on Garland Avenue. That is the east side of Garland.

Q That is across from the Sweet home?

A Across from the Sweet home.

Q Did you see any people out on the lawn in front of this - -

A No, sir, didn't see anybody.

Q Did you observe the house next to that?

A I did.

Q Did you see any people on the front porch?

A Didn't see anyone there.

Q Did you see whether or not there was a police officer on this side of the street?

A There was a police officer standing on that side.

Q Did you see any kind of a disturbance while you were there?

A There was absolutely no disturbance.

Q Why did you go there?

A To see -- to look over the condition.

Q You remained there about ten or fifteen minutes?

A Yes, sir.

Q During the time that you were there, did anything unusual happen?

A No, sir.

Q Why did you leave in ten or fifteen minutes?

A Because everything was in fine condition, and I made the remark --

MR. DARROW: Now, wait a minute. Whether he left at that time, argument here. It is not any part of the witness' business. I object to his telling what he thought. He is telling --

THE COURT: There are other objections to the answer. It may be stricken from the record. There is no objection showing, Mr. Kennedy, what the situation was that he found there.

Q Now, you say you only remained ten or fifteen minutes?

A About fifteen or twenty minutes, I would say.

Q And you went out to see how things were?

A Yes, sir.

Q Did anything happen in the time that you were there that caused you to remain there?

MR. DARROW: Well, now, I object to that question. He has already answered that question. He told the situation.

THE COURT: The objection is overruled.

A No, sir.

Q Did you have to go back to the place after that?

A I came that evening.

Q Did you go back - - when?

A Next day.

Q Next day. While you were there, did you see any stones or missiles of any kind thrown at the Sweet home?

A No, sir.

Q Did you see anybody there besides police officers who were armed with any kind of weapons?

A No, sir.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Officer, you went out there, you say, about eight o'clock?

A Yes, sir, to the best of my knowledge.

Q To see what was going on?

A Yes.

Q And you stated some time ago, ten to twenty minutes?

A Yes, sir.

Q And you went around the district?

A Yes, sir.

Q Did you say there were a few people sitting on steps up on Garland Avenue north of Charlevoix?

A Yes, sir.

Q And nobody standing on the sidewalk or in front of the

house or on the lawn?

A I didn't see anybody while I was there.

Q Well, you were there to see, weren't you?

A I said that I didn't see anybody while I was there.

Q You were there looking to see, weren't you?

A There was nobody there while I was there.

Q Wait a minute. Answer my question. You were there looking to see the condition, weren't they?

A Yes, sir.

Q And you did look to see?

A I did.

Q And there was nobody standing there while you were there?

A While I was there, yes, sir. On the step.

Q On the step. Yes. Nobody standing anywhere north of Charlevoix on Garland?

A No, sir.

Q That you observed? Nobody standing around the schoolhouse corner?

A Those police officers.

Q Nobody on the schoolhouse yard?

A No, sir.

Q And nobody on the south side of Charlevoix?

A A few people passing backward and forward.

Q Nobody standing there?

A I didn't see anybody.

Q Well, you looked?

A I said that I didn't see anybody.

Q Well, you looked to see, didn't you?

A I didn't see anybody.

Q I ask the court to instruct this witness that he is a witness and he should answer questions.

A I have answered it.

Q You haven't.

THE COURT: The question has been asked, what was it? You made an answer.

A I said that I didn't see anybody, your Honor!

Q That wasn't the question, your Honor. I asked him three times, "Did you look to see?"

A I did. I said that I was there.

Q Now, you answered yes. You did look. There wasn't nobody there, is that right?

A No, sir.

MR. TOMS: If the court please, he has already said that he didn't see anybody.

MR. DARROW: That is not the question. A blind man could make the same answer.

MR. TOMS: That doesn't answer that question that nobody wasn't there. I think that answer is sufficient

THE COURT: Let's see what this question is.

MR. DARROW: He has answered that question.

A What was the question?

MR. DARROW: I asked whether he looked, and he said "Yes." I said then that nobody was there, and he said no.

Q Did you look to see whether there was anybody around the vicinity of Bewick Street?

A Yes, sir.

Q Was there?

A There was somebody sitting on the steps, on one of the private homes.

Q Outside of that, was there anybody there?

A I didn't see anybody standing around there.

Q Well, you looked, didn't you?

A Yes, sir.

Q Were there any there?

A I didn't see anybody there.

Q I ask to have the answer to that question, your Honor.

MR. KENNEDY: Well, the witness answered. He said that he didn't see any there. That is all he can tell.

THE COURT: That is very definite, Mr. Darrow.

Q You would have seen them if they would have been there?

MR. KENNEDY: I object to that as being argumentative.

MR. DARROW: I don't know how his eyesight is.

A I can make an explanation if you wish to why there wasn't anybody.

Q I want you to answer questions, that is all.

A Police officers there for to keep them moving, not to let them stand.

Q There wasn't anybody moving, was there?

A There wasn't anybody there, except those few people walking backward and forward.

Q Now, you saw nobody standing on Bewick Street?

A No, I did not.

Q Now, along the west side of Garland Avenue, up two or

three blocks, did you see anybody standing up that way?

A No, sir.

Q You didn't see anybody standing on the corner for a block around you?

A I did not
would talk

Q You ~~talked~~ with the policeman, wouldn't you?

A Yes, sir.

Q Did you know anything about traffic officers being stationed --

A There wasn't any there.

Q Did you know anything about any being stationed on the corner on each side?

A Police officers?

Q Well, to keep the traffic, turn the traffic away?

A Yes, sir, I do, I stationed them there myself.

Q When?

A When I got there.

Q You sent for them, or put them there?

A Put them there.

Q At what corners?

A A block each way.

Q Yes. That meant four of them, didn't it?

A Yes, sir.

Q Did you see any automobiles parked around there?

A Yes, machines parked around there.

Q What?

A Yes, sir, I did.

Q Do you know how many you saw?

A I couldn't say.

Q Didn't pay any attention to them?

A No.

Q What?

A No, sir.

Q Do you know whether anybody was in them, or whether they were all empty?

A All empty.

Q Why did you put traffic policemen at these four corners?

A Precaution.

Q Yes. And then after staying there in the neighborhood of fifteen or twenty minutes, you went away?

A Yes, sir.

Q You heard no stones thrown?

A No, stones.

Q Did you see anybody come into the Sweet house?

A I did not.

Q That is all.

REDIRECT EXAMINATION

BY MR. KENNEDY:

Q Did you see any cars double parked on Garland Avenue while you were there?

A There were no cars double parked.

Q Do you know anything about the ordinary traffic on Charlevoix Avenue on warm summer nights?

A Very heavy.

Q That is all.

RECROSS EXAMINATION

BY MR. DARROW:

Q Was it as heavy this night as usual?

A Just about the average, as a summer night.

Q Did you ever see policemen, traffic policemen, divert the traffic because the traffic is ordinarily very heavy on that street?

A No, sir.

Q That is all. Wait a minute.

MR. KENNEDY: Are you through?

MR. DARROW: Just a minute until I read this letter. Your Honor, pardon me.

Q I show you Defendant's Exhibit 3 for identification to be - -

MR. HAYES: Not 3.

Q I show you Defendants' Exhibit 1, and 3 for identification, and ask you whether you ever saw those letters, or the originals, or any other copies of them.

A (The witness was handed the letters.)

Q The only question is, have you ever seen them before? Have you seen copies?

A I have seen one, three here, I have, Exhibit 3.

Q That is the first one, isn't it?

A Copy.

Q Do you know through whom you got the exhibit? This is - -

A 3.

Q You have seen three?

A I believe I have seen that. I seen communication to that effect.

- Q Do you know whether you have seen one?
- A I didn't -- I don't recollect having seen that.
- Q How long ago did you see a communication to that effect, 3?
- A I can't quite remember. It is quite a while ago.
- Q Tell me about? How is that?
- A Quite a while ago.
- Q Officer, just tell me what is your exact position in the police department?
- A Deputy superintendent.
- Q What?
- A Deputy superintendent.
- Q That is all. Let me call your attention to one thing more in here and then I will ask you once more, this is the Mayor's letter (indicating).
- A (This answer was not audible to the jury.) I talked to Mr. McKinney myself on that subject.
- Q Now, I want to ask you a question, after calling your attention to a part of the, whether you did see one also?
- A I can't recollect.
- Q You can't say?
- A No, sir.
- Q All right. That is all.

REDIRECT EXAMINATION

BY MR. KENNEDY:

- Q Just one question. Deputy, you have had quite a bit of experience in traffic here in the city of Detroit?

A Yes, sir.

Q A street such as Charlevoix Avenue, would the average night of traffic, on a summer night, would any stopping of the traffic delay or hesitate traffic because it may be all tied up on the street?

MR. DARROW: I object to that.

THE COURT: The objection is sustained.

Q Why did you order the traffic on Charlevoix at that particular point and Garland shut off on the night of September 9th?

A The conditions there were such that traffic was very, very heavy, and there was trouble brewing - - I took it for granted - - I had experience in the (inaudible). I took precautions, and shut the traffic off so as to protect people from being injured, if any trouble started. We had shooting affairs where congestion like that happened once, and we figure precautionary measure for to shut the traffic off if it was - - there was something to start.

Q Did you have some experience here in Detroit prior to the Sweet affair?

A Yes, sir, two of them.

Q State whether or not these officers standing on the corner of Charlevoix and Garland Avenue, upon their being there, whether motors stopped as they all went along Charlevoix?

MR. DARROW: Now, just a minute. You mean, did you see them?

MR. KENNEDY: Yes. I am asking if he saw. He

couldn't tell unless he saw.

MR. DARROW: Where do you mean, at the corner?

MR. KENNEDY: Yes.

Q Did you see any of the motors driving along Charlevoix there when they came to the point that the officers were at, hesitate or stop their cars?

A No, sir.

Q That is all

RE CROSS EXAMINATION

BY MR. DARROW:

Q Now, when you say you shut them off, as precaution against any trouble, you had reference to the situation at the Sweet house?

A Yes, sir.

Q That is all.

REDIRECT EXAMINATION

BY MR. KENNEDY:

Q Did you see anything at all happen there that gave you reason to believe there was going to be any trouble?

MR. DARROW: Just a minute. I object to that. He has gone over that.

THE COURT: Will you read the question.

(The question was repeated by the reporter.)

MR. DARROW: As a conclusion. He just told all about what he saw, and didn't see in the neighborhood.

THE COURT: Objection overruled.

A No, sir, absolutely nothing.

Q That is all.

MR. DARROW: I move the last two words be stricken out.

THE COURT: It may be stricken, "absolutely nothing."

MR. KENNEDY: That is all.

THE COURT: Just a minute, Superintendent.

(This question and answer were not audible to the jury.)

Did the experience you had in ^a ~~xx~~ similar case cause you to do that?

A Yes, sir.

(Witness excused.)

b - - - - -

L A W R E N C E E L I C K, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Where do you live, Mr. Elick?

A 3904 Garland.

Q That is on the east side of the street, is it?

A I beg your pardon?

Q That is, on the east side of Garland?

A West side.

Q Well, do you know where the Sweet home is?

A Yes, sir.

Q Well, is your house on the same side of the street - -

A Yes, sir.

Q Your house is on the same side of the street as the Sweet home?

A Yes, sir.

Q What is your house number?

A 3409.

Q Oh, yes.

MR. DARROW: That is different.

Q 3409. Is that between Charlevoix and Goethe, or is it north of Goethe?

A Second house across Goethe.

Q Second house across Goethe?

A Yes, sir.

Q Were you living there on the 9th of September this year?

A Yes, sir.

Q Do you know where Dr. Sweet's residence is, don't you?

A Yes, sir.

Q Were you near there the night of September 9th?

A Yes, sir.

Q About what time?

A Oh, around 8:15.

Q Had you left your home to go there - - to that place?

A I went to the store.

Q What store do you mean to?

A I can't tell you the name of it.

Q Was it a grocery store?

A Grocery store.

Q Had you gone to the grocery store?

A I had went to the grocery store.

Q Where is that grocery store?

A On the corner of Charlevoix and Garland.

Q Did you walk down Garland Avenue?

A I walked down - -

Q That was about 8:15?

A 8:15.

Q What side of the street did you walk down?

A Walked down on the right hand side and come back on the left.

Q ~~xkxkx~~ You walked past the Sweet home when you came down - - where did you cross?

A I crossed back on that side.

Q Back on what?

A On the north side.

Q Whereabouts did you cross?

A About half way between - -

Q What caused you to cross?

A Well, it is hard to tell.

Q Yes, sir - -

A I didn't have no particular reason.

Q Then you walked about half a block along the east side of Garland Avenue, is that right?

A Yes, sir.

Q And while you walked along there, did you meet any police officers?

A Well, they were all along there.

Q Did you see any people standing on the street there?

A I seen some moving, not standing.

Q Did you see anybody out on the porches on the houses along the block there?

A Well, I didn't take notice.

Q You went to the store, anyway, is that right, northeast corner grocery store?

A Yes.

Q Do you know that vacant space there alongside of the grocery store on Garland Avenue?

A Yes, sir.

Q Did see anybody standing there?

A No.

Q How long did you remain in the grocery store?

A Well, just long enough to purchase my groceries.

Q Then did you come out of the grocery store and walk north on Garland or what did you do when you came out?

A I walked north on Garland Avenue, yes, sir.

Q How far north did you go?

A I went clear home until I stopped.

Q Did you go home?

A I started - -

Q Well, all right, then you stopped where?

A Yes.

Q Where did you stop?

A Where did I?

Q Yes.

A Stopped between two houses.

Q Whereabouts were those two houses?

A The first two you come to.

Q Is that the house in back of the grocery store and the --

A First house.

Q That is the first house. Did you stop between that house and the house north of it?

A Yes.

Q And what caused you to stop?

A I quit running.

Q Did you hear some shots there?

A Yes, sir.

Q Where did the -- did you see the flash of any fire at that time?

A Yes, sir.

Q Where did you see the flash?

A Coming out of the upstairs window.

Q Whereabouts --

A Upstairs window.

Q What place?

A Sweet home.

Q And at the same time, did you hear the firing of guns, or shots?

A Did I what?

Q Did you hear some shots fired at that same time?

A Yes, sir.

Q What did you do when you heard them?

A I started to run.

Q Where did you run to?

A Ran between these two houses.

Q That is, between the Dove home and the house next to it?

A I didn't know it was the Dove home at the time.

Q You know now?

A I know now, it is.

Q When you ran to there, did you see any people on the lawn right there?

A No.

Q How far back between the houses did you go?

A About half way, I judge.

Q How many shots did you hear fired when you started to run?

A Well, to my estimation there was fifteen or twenty.

Q Were they altogether or - - or separated?

A No, there wasn't a little time between.

Q Did you - - would you call them a volley of shots?

A Well, I would call it two volleys.

Q That is what I was getting to. Did you hear two volleys?

A Yes, sir.

Q How long between the first volley - - between the first and second volleys?

A Well, - -

Q If you know?

A It wasn't very long. I couldn't just judge the time.

Q Was the first volley still going on when you stopped between the two houses?

- A It was still shooting when I got between the two houses.
- Q Then did the shooting stop when you got between the two houses?
- A Well, it stopped when I did.
- Q Then - -
- A That is the reason I stopped.
- Q When was the second volley?
- A It was short time afterwards.
- Q Well, you were standing between the two houses?
- A Yes, sir.
- Q Did you see anybody else standing between those houses?
- A Well, there was four or five - - there.
- Q Whereabouts, back in the alleyway?
- A There was a couple in front of me, and couple or three behind me. I did not count them.
- Q Did you know a man by the name of Leon Briener?
- A I didn't know his name.
- Q Did you see anybody injured there that night?
- A Yes, sir.
- Q And where was the man that was injured?
- A Standing beside the steps.
- Q How far ~~XXXXXXXX~~ away from him were you at that time?
- A Well, I was close.
- Q Can you give us any idea how close you were?
- A I judge six or seven feet.
- Q Back of him or in front of him?
- A Back.

MR. DARROW: He wasn't in front of him.

Q No. How many people did you see around that lawn there, in that space between the houses?

A At the time?

Q Yes. Just at the time of the shooting?

A There was three or four of us went up to him.

Q Did you see the man that was shot, or appeared to be shot?

A I seen him after he was shot.

Q Did you hear him say anything?

A I didn't hear him.

Q Did you go up to him?

A Yes, sir.

Q Now, before he was shot, can you give us any estimate as to the number of people who were either immediately around that porch, or the house north of it?

A No, I couldn't.

Q Did you pay much attention as you ran through there?

A (The answer was inaudible to the reporter.)

Q What was that last? What did you say -- you answered something there?

A I didn't understand you.

Q When you were running in between t his house, or across that lawn along there, did you pay any attention as to the number of people that were there?

A No, I didnot.

Q Were there any people there that you remember?

A Well, there was a few.

Q Where were these few that you saw?

A Well, there was -- three or four between the houses, or five- - three or four up on the porch.

Gel.

Q While you ^{were} walking - going to the grocery store then, coming down Garland, did you see anybody armed with weapons of any kind?

A No, sir.

Q Missiles or stones, or sticks?

A No, sir.

Q Were you armed yourself?

A No, sir.

Q Did you hear any threats directed against the Sweet house, or the occupants of it?

A I beg your pardon?

Q Did you hear any threats directed against the Sweet house, or the people that were in it?

A No, sir.

Q Well, now, when you - - now, you say you went to Briener, this man was shot?

A I did what?

Q I say, you ran up to the man that was shot?

A Yes.

Q Was that Briener?

A No, I never seen him afterwards. I never seen him then.

Q Was that man dead or alive at that time?

A I would pronounce him dead.

Q Where was he at that time?

MR. DARROW: Now, haven't we enough of this?

Q What was he doing at that time? Was he laying down, or sitting up or what?

A He was sitting and ~~laying~~ leaning together.

Q Did you pick him up or help to pick him up?

A No, sir.

MR. DARROW: Just a minute. I object. We have had ten or fifteen witnesses on where Mr. Briener was, and so on. There is not going to be a word of contradiction. Don't you think we could -- I object your Honor, I have the right to limit it.

THE COURT: Are you going to proceed with this thing further?

MR. KENNEDY: Well, we want this witness for one purpose.

MR. NELSON: The questions are all leading, and I think should be stricken out, objectionable from that viewpoint.

THE COURT: Whatever your purpose may be, Mr. Kennedy I think if you get directly to it, you might not ask any further questions along the lines that have been objected to. I do not want to be unreasonable about it. Counsel have asked you to limit yourself on evidence of this kind.

MR. TOMS: Your Honor will remember that he was an eye witness that they told us to produce.

MR. DARROW: I am objecting to -- this part of it has been over so much.

Q Anyway, you saw Briener there, is that right?

A I said I would pronounce him dead.

Q I say, you saw him there?

A Yes, sir.

Q Did you observe whether or not he had any weapon of any kind

on him?

A I didn't see any.

Q Did you see his hands?

A Did I see what?

Q Did you see his hands there?

A No, sir.

Q Did he have anything in his hands?

A No, sir.

MR. DARROW: It is not claimed he had any weapons.

MR. TOMS: No claim that Briener was armed?

MR. DARROW: We don't know anything about it. We have got to get evidence on it. You have proven it out.

Q Were you there when Mr. Briener was taken away?

A Yes, sir.

Q Where was he taken to, do you know? I mean, where did you see him taken to?

A Officers put him in a car.

Q And did the car take him away?

A I beg your pardon?

Q Did the car go away then?

A Yes, sir.

Q How long did you remain at the scene?

A I left then.

Q And where did you go?

A Went home; stayed home.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q You came across Garland Avenue going north to the grocery store, is that right?

A I beg your pardon?

Q This witness is a little hard of hearing, I understand, that is why I am yelling at him. You came - - when you left your house, you went across Garland Avenue, to the east side -

A Yes, sir.

Q And came up the street or down the street to the grocery store, is that right?

A I call it ~~down~~.

Q Well, we will call it down, anyway, towards Charlevoix. There were a number of policemen around there, wasn't there?

A Yes, sir.

Q What were they doing?

A They was just - - some of them was directing traffic and some of them was patrolling the streets.

Q What do you mean by "directing traffic?"

A They were turning traffic off of Garland.

Q Well, were they giving any directions to the people on Garland as to forming in crowds?

A They didn't say nothing to me.

Q Or tell them to keep moving, or don't you know?

A They didn't say nothing to me about it.

Q And you didn't notice how many people were down there when you got out?

A I didn't pay any attention.

Q So you know nothing about that?

A No, sir.

Q You didn't notice how many were around when you went back?

A I didn't stop to pay any attention.

Q You heard the shot and rushed into the alley, and saw some four to six, or like that, you say between the two houses?

A Three or four, I mean.

Q You said more than that at first, didn't you? You said three or four back of you and some in front of you, didn't you?

A I said two or three, four back of me, and two or three in front of me.

Q That is the only place that you noticed the people?

A The only place I noticed.

Q Otherwise, you didn't pay any attention to it?

A No, sir.

Q Were there any of those boys in the alley there, in the place between the houses, were there boys, or men?

A I didn't see any.

Q What?

A I didn't see any.

Q You don't know whether they were boys or men?

A I didn't notice any.

MR. TOMS: Speak louder. I didn't hear him.

Q They ask you to speak louder. You don't know whether they were boys or men?

A I didn't see any. Didn't see any boys. I seen some men.

Q Well, you don't know what age they were?

A No, sir, I don't know.

Q That is all.

A Their age.

(Witness excused).

W I L L I A M A R T H U R, called as a witness
on behalf of the People, herein, having been first
duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Your name is William Arthur?

A Yes, sir.

Q Where do you live, Mr. Arthur?

A 2914 Garland.

Q 2914 Garland?

A Yes, sir.

Q That is the Dove home, is it not?

A Yes, sir.

Q There on the 9th day of September, 1925?

A Yes, sir.

Q And were you there on the night of that particular day?

A Yes, sir.

Q What time did you get home?

A Well, I think it was about six o'clock.

Q Six o'clock. Where do you work?

A Murray Body.

Q After you came home, did you have supper?

A Yes, sir.

Q After you had supper, what did you do?

A Well, I was reading the paper.

Q Did you read the paper inside of the house or outside?

A Inside.

Q And after you got through reading the paper, did you go out on the front porch?

A Yes, sir.

Q And who else was on the porch with you, if you remember?

A There was Mr. and Mrs. Dove and Mr. Strauser.

Q Whereabouts were you on the porch, were you on the steps, or up on the porch proper?

A I was up on the porch.

Q Did you hear some shooting there?

A Yes, sir.

Q How long before the shooting, was it, that you came out?
How long were you on the porch then?

A About two minutes.

Q What was the first thing that attracted your attention there?
Did you hear some shots fired?

A Yes, sir.

Q Could you tell from the sound where the shots were fired from?

A I seen the fire.

Q You saw the fire. Where did you see it was?

A At the house across the street.

Q That is the Sweet home?

A Yes, sir.

Q Were they upstairs or downstairs?

A Upstairs.

Q The front windows or side?

A Front.

Q And after -- how many shots did you hear?

A Oh, I know fifteen or twenty

Q And what did you do when you heard the first shots?

A I went in the house.

Q Did you remain in there or come out again and go and remain in the house? Did you hear any shots fired after you came into the house?

A No, sir.

Q Did you come out at all after that?

A No, sir.

Q Were you armed that night, Mr. Arthur? Did you have any weapons of any kind on your person?

A No, sir.

Q Did you throw any stones?

A No, sir.

Q Or any kind of missiles at the Sweet house?

A No, sir.

Q Cross examine.

CROSS EXAMINATION

BE MR. DARROW:

Q Now, Mr. Arthur, as I understand it, you came home from your work and went upstairs and read the paper, is that right?

A No, sir, downstairs.

Q Downstairs. Don't you live in the upper flat?

A No, sir.

Q Oh, no, no. I got this mixed up a little bit. That is right. You were rooming with the Dove family?

A Yes, sir.

Q What time did you come home that night?

A About six o'clock.

Q And you went in and read the paper until just a little before this shooting?

A Yes, sir.

Q And you hadn't been out on the porch over two minutes?

A No, sir.

Q You don't know what you went out for, or why you went out, do you? Do you know why you went out on the porch at all?

A Yes, I went out to smoke, I think.

Q To smoke. You just got about well lighted up -- I mean, the cigar, when you heard the shooting?

A Yes, sir.

Q Then you ducked back into the house, and stayed there, that is all.

MR. KENNEDY: That is all.

MR. DANKOW: Say, will you wait just a minute.

(Witness excused.)

L A W R E N C E E L I C K, recalled, testified
as follows:

RECROSS EXAMINATION

BY MR. DARROW:

Q This witness is just recalled for further examination.

I forgot to ask you what you did with the groceries you had?

A Well, my wife took them home, part of them.

Q Where did you see your wife?

A What?

Q Whereabouts did you see your wife? She wasn't with you, was she?

A Yes, sir.

Q Oh, your wife with you all this time?

A Yes, sir, she went to the store with me.

Q Did she run into the alley with you?

A No, sir, she ran home.

Q She brought groceries - -

A No, sir, she always - - she took the groceries right home, pint of milk.

Q All right. That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q What was it, pint of milk?

A Pint of milk.

Q Is that all there was to it?

A That is all she had. I had the rest.

MR. DARROW: What did you have?

A Pack of cigarettes.

Q You did some shopping that night?

A Yes.

(Witness excused.)

W A L T E R D O R A N, called as a witness
on behalf of the People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Your name is Walter Doran?

A Yes, sir.

Q Member of the Detroit Police Department?

A Yes, sir.

Q Were you on the 9th day of September, 1925?

A Yes, sir.

Q What precinct were you attached to on that day?

A No. 5.

Q That is, the McClellan?

A Yes, sir.

Q Were you in the vicinity of Charlevoix and Garland?

A Yes, sir.

Q What time did you go there?

A Four o'clock in the afternoon.

Q Under whose charge were you, ^{what} /sergeant?

A Sergeant Neighbauer.

Q Were you given a particular place there?

A Yes, sir.

Q Where was your station?

A I was stationed at police car on southeast corner of

Garland Avenue.

Q You - -

MR. DARROW: What did you say, "police car"?

Q Was that one of the four - -

A Yes.

Q Runabouts, were they not?

MR. DARROW: Southeast corner of Charlevoix and
Garland?

A Yes, sir.

Q What time were you placed there?

A Four o'clock.

Q And did you remain in the car?

A Yes, sir.

Q Until how long?

A Until twelve that night.

Q And did you leave there at any time?

A Yes, sir.

Q What time did you leave there, first?

A First time I left there about 8:10, something like that.

Q Where did you go to?

A To McClellan Station.

Q And at whose instructions, if anyone, did you leave that
place at that time?

A Sergeant's instructions.

Q Did you go to the station?

A Yes, sir.

Q And when you came back, did you have anyone with you that
you did not have with you?

A Yes, sir.

Q Who?

A I had two officers.

Q And where did you take those two officers?

A Give me orders to take one at Goethe and Garland, and one at Waterloo and Garland.

Q And did you do that?

A Yes, sir.

Q And after you did that, where did you go to?

A I returned back to the same place.

Q Where was your car, facing north on Charlevoix?

A Yes, sir.

Q I mean, on Garland?

A On Garland.

Q How far south of Charlevoix was your car parked?

A Probably twenty feet.

Q Were you in uniform that night?

A No, sir.

Q Were there anyone else in the car with you?

A No, sir.

Q Up until eight o'clock, at night, you were sitting in the car then. Could you see north on Garland?

A Yes, sir.

Q Could you see the school grounds, at least to your right along Garland there?

A Yes, sir.

Q How many, if any, people did you see on the lawn there?

A Well, I never seen anybody on the school lawns.

Q Did you see any officers at that particular point, or superior officers?

A Yes, sir.

Q Who did you see?

A Inspector Schuknecht, and Lieutenant Schellenberger.

Q Anybody else?

MR. TOMS: Keep your voice up.

Q A little bit louder.

A Assistant superintendents.

Q Did you see any police officers at any other place?

A Why, yes, sir, there was -- I saw one stationed on Charlevoix.

Q Well, could you see from where you were sitting the space of ground, vacant ground, between the grocery store on the northeast corner of Charlevoix and the curb line of Garland?

A Yes, sir.

Q Did you observe whether or not there were any people standing on that vacant space back of the sidewalk and the store?

A Well, there was a few.

Q About what time was that?

A That was in the -- along in the evening, seven o'clock.

Q Well, then up around eight, could you see through it, eight o'clock, or did you see--

A Well, around eight o'clock, I could see people going to the grocery store.

Q Did you see any crowds of people, or people collecting

there around eight o'clock?

A No, sir.

Q Did you observe the conditions around the Sweet house, I mean, the Garland side, and Charlevoix side?

A Yes, sir.

Q Were there any people around there?

A No, sir.

Q And then you came back. Were you there at the time of the shooting?

A Just when it started.

Q And were you at the same place on the southeast corner?

A Yes, sir.

Q What was the first thing you heard or saw of the shooting?

A Well, I heard a volley of shots.

Q Where did those shots come from, or the sound, if you could tell that from the volley?

A On the corner of Charlevoix.

Q Did you see the flash of any fire from the place?

A Yes, sir.

Q Where did you see the flash?

A From upstairs window, facing me, and from the upstairs window, facing Charlevoix side.

Q Then you saw the flash of fire from the Garland side upstairs, and from the Charlevoix side?

A Yes, sir.

Q Just before the shooting, did you see any disturbance there of any kind?

A No, sir.

Q Did you see anything thrown at the Sweet house?

A No, sir.

Q What did you do at the time of the shooting?

A I went to put in a call.

Q Where did you go to put that call in?

A I tried to get to the box on Hurlbut and Charlevois.

Q Did you drive?

A I drove the car.

Q How many shots did you hear the first time?

A Well - -

Q Can you tell? Did you hear more than one?

A Yes, sir, there was probably fifteen or twenty.

Q Were they close together or were they not - - rapid succession or was there an interval between them?

A Well, it seems as though there was just a slight interval, or a few seconds between them.

Q Did you hear two volleys of shots?

A Well, I wouldn't say they were two volleys; kind of an interval, kind of a second.

Q You went into action immediately after the shots were fired?

A Yes, sir.

Q Did you come back to the Sweet house then?

A Yes, sir.

Q When you came back there, what did you do?

A I took my same position.

Q You sat there?

A Yes, sir.

Q

Q Did you go into the house?

A No, sir.

Q Did you have anything to do with the occupants of the house, or taking them to the station, or arrest them?

A No, sir.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Let's see, Doran, is that the name?

A Yes, sir, Doran.

Q You say when you heard the shots you went to try to get to the box?

A Yes.

Q Whereabouts?

MR. TOMS: Keep your voice up.

A At Hurlbut and Charlevoix.

Q Hurlbut is one block - -

A West.

Q West of Garland.

MR. TOMS: Two blocks west.

Q Two blocks west. Did you go there?

A No, sir.

Q Why not?

A Well, there was a Chevrolet car pulled up, and stalled his motor, right in front, and I had to turn to the right.

Q Chevrolet car?

A Yes, sir. It got excited and stalled his motor car.

Q Didn't stop for Chevrolet car, did you?

A I stopped. He didn't block me from going the other way, but I couldn't make a left hand turn.

Q You went there, didn't you?

A Yes, sir.

Q Well, now, officer, you say you came about four o'clock in the afternoon?

A Yes, sir.

Q You sat in the flivver how long?

A Eight hours.

Q What?

A Eight hours.

Q A long time to sit in a Ford, wasn't it?

A Yes, sir.

Q What were you sitting there for?

A For the purpose of - - anybody threw stones at the house from passing automobiles; to apprehend them.

MR. TOMS: I can't hear you.

(The answer was repeated by the reporter.)

Q You were detailed on stones?

A Yes, sir.

Q That is what you were watching for?

A Yes, sir.

Q You mean, yes, if there were any, didn't you?

A I didn't see any.

Q You didn't hear any either?

A No, sir.

Q Your hearing is good, isn't it?

A Yes, sir.

Q You kept your eye on the men all the while, didn't you, and kept your mind on the job, we will say?

A Yes, sir.

Q One of your special purposes was to see whether any stones were thrown at the house?

A Yes, sir.

Q And you stayed until the shooting commenced?

A No, I left.

Q Weren't you there at the time of the shooting?

A Yes, sir.

Q Well, excepting going down after these officers, you stayed all the time?

A Yes, sir.

Q How long were you gone then?

A Well, possibly fifteen minutes.

Q That was what time of day?

A Well, from about 8:10 until 8:25.

Q How long had you been back before the shooting began?

A Just quick, got the car stopped.

Q Did you see anybody come up and go into the house?

A No, sir.

Q And you saw no stones thrown or heard no stones thrown at the house during all the time?

A No, sir.

Q Did you have any other business there except to watch stones?

A Preserve peace and order.

MR. DARROW: I didn't hear that answer.

Q Were you to sit in the machine for that purpose?

A Yes, sir.

Q You didn't come out of it?

A No, sir.

Q Now, you say there was nobody on the schoolhouse grounds?

A No, sir.

Q And you were right in front of it all the time?

A Yes, sir.

Q Nobody over in the yard on the grass?

A No, sir.

Q Nobody standing around?

A No, sir.

Q Well, they couldn't possibly have been there without your seeing them, could they?

A No, sir.

Q Was there any place where there was anybody?

A Well, at the corner of that apartment house there is approximately twenty feet - maybe seven or eight people.

Q Now, you are speaking of the apartment house across the street from where you were?

A Charlevoix, yes, sir.

Q Whereabouts were they?

A Sitting on the grass there.

Q Sitting on the grass on which street?

A On Garland.

Q Sitting down?

A Some of them sitting down, children was playing.

Q There weren't any men there, were there?

A Well, I think about two or three men, the rest was children and women.

Q Any man patrolling up and down the street there @

A No, sir.

Q How big were these children?

A Well, I remember one was about two years old. The other one about five, and one was -- a couple of girls, seven or eight.

Q They were all old enough so they could possibly walk?

A Yes, sir.

Q One was two, you say?

A Yes, sir.

Q Do you know whose that was?

A Well, I presume it was from that apartment house.

Q Yes, but you don't know?

A I don't know, no, sir. ~~That~~

Q That is all you saw there?

A Yes, sir.

Q The whole evening?

A Yes, sir.

Q Or afternoon?

A Yes, sir.

Q Did you -- is there anywhere else that you saw anybody?

A No, sir.

Q From four o'clock until the shooting?

A Yes, sir.

Q It was part of your business to watch, wasn't it?

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A Yes, sir.

Q How many policemen did you see around there?

A I presume about eight.

Q I beg your pardon, officer?

A I presume about eight, or nine.

Q And they were all around there, were they?

A Yes, sir.

Q Weren't doing anything, were they?

A Well, they was -- if anybody would come along, they would keep them moving.

Q There wasn't anybody coming along, was there?

A Well, people went past on the street.

Q Are you sure about that?

A Yes, sir; they never stopped them.

Q What?

A They wasn't allowed to stop people.

Q Well, there weren't many people around?

A No, sir.

Q Four or five in the whole afternoon?

A Well, people at the street car .

MR. TOMS: I can't hear.

A People coming through.

Q Yes, on the street car. Didn't stop to move around on the street, did they?

A Well, they would stop, and ask what was going on.

Q Yes.

A See all the officers around there.

Q You told them -- and they would say to go along?

A Keep moving.

Q There weren't anybody especially on the street, were there?

A Well, I wouldn't imagine any ordinary - -

Q What - -

A - - any ordinary reasoning - -

Q There weren't as many as usual?

A Well, some.

Q Were you ever there before?

A Yes, sir.

Q When?

A I was there the day before.

Q Were you ever there before that?

A I believe I was there the day before that, or the second - -

Q Detailed on this same job?

A Yes, sir.

Q Well, before this matter came up, were you ever there?

A No, sir.

Q How far do you live from there?

A Several miles.

Q What?

A Thirty or forty blocks.

Q You don't know what the traffic was any other time except the days that you were there, do you?

A No, sir.

Q That is all.

MR. KENNEDY: That is all.

(Witness excused.)

- - - -

E R N E S T S T A N K E, called as
a witness on behalf of the People, being first
duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

- Q Your name is Ernest Stanke?
- A Yes, sir.
- Q Member of the Detroit Police Department?
- A Yes, sir.
- Q And you were on the 9th day of September, 1925?
- A Yes, sir.
- Q You were on the 9th day?
- A Yes, sir.
- Q What station are you connected with?
- A McClellan.
- Q McClellan Avenue, on that day, were you assigned to duty
at the corner of Charlevoix and Garland here in the city
of Detroit?
- A I was.
- Q What time did you go there?
- A Four o'clock in the afternoon.
- Q And were you given a particular post there, station, that
date?
- A Yes, sir.
- Q Whereabouts?
- A Southeast corner of Charlevoix and Garland.
- Q Southeast corner of Charlevoix and Garland?
- A Yes, sir.

Q Were you -- I mean, according to your instructions, what did you do? Did you stand at one place, or did you patrol?

A Stayed there.

Q How long did you stay there?

A Until about eight o'clock.

Q Did you stand in one spot, or did you move up and down, or what did you do?

A No, stayed in the car.

Q You stayed in the car?

A Yes, sir.

Q Who did you stay in the car with?

A With Doran.

Q Officer Doran?

A Yes.

Q That is a Ford car?

A Yes, sir.

Q Were you in uniform, or not?

A In uniform.

Q Who was the driver of that car?

A Doran.

Q You say that you stayed there until eight o'clock?

A Yes, sir.

Q Was Doran in uniform?

A No, sir.

Q Did you see the Sweet house there?

A Yes, sir.

Q Were there any officers around the Sweet house?

A Yes, sir.

Q Up until eight o'clock, at night, did you see any group of citizens, did you, not any police officers? Did you see any citizens around the Sweet house ?

A Not a bit, no, sir.

Q Did you see anybody walking up and down there?

A Yes, sir.

Q Were they permitted to stand in front of the Sweet house?

A No, sir.

Q Did you remain in the car, or did you get out of it?

A I got -- the sergeant detailed me that after.

Q You got out? You say the sergeant detailed you?

A Yes, sir.

Q When you got out, where did you go?

A On the roof, of an apartment house.

Q What time was that?

A At eight o'clock.

MR. DARROW: Do you say on the roof of the apartment house?

Q Is that -- what apartment house is that?

A That is on the southwest corner of Charlevoix and Garland.

Q When you got out, and got on the apartment house, what did you do?

A I was sent there to see if there was anybody there. There seemed to be a plausible place for it. There was no one there.

Q Was there anybody on the roof?

A No, sir.

Q How long did you remain on the roof?

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A Possibly ten minutes.

Q Were you present at the time of the shooting?

A Yes, sir.

Q And where were you when the shooting happened?

A On the apartment.

Q ~~What~~ On the
apartment?

A Yes, sir.

Q Whereabouts on the apartment?

A I was almost the center of the building.

Q Inside the building?

A No, on top.

Q On the roof?

A On the roof.

Q Did you hear some shots?

A Yes, sir.

Q When you heard these shots, what did you do?

A I dropped.

Q You dropped where?

A Dropped down, I did not know who they were shooting at.

Q You dropped down on the roof of the apartment?

A Yes, sir.

Q Did you see where these shots came from?

A Yes, sir.

Q Did you see the flash of any fire?

A Yes, sir.

Q Whereabouts?

A From upstairs.

Q Whereabouts, upstairs?

- A From the three sides of the house.
- Q Well, by the three sides, what sides do you refer to?
- A Front, back and the side towards Garland Avenue.
- Q Did you see anybody these street -- the front is on Garland, isn't it?
- A It is on Garland, yes, sir.
- Q When you said, "the side" what do you mean, the Charlevoix --
- A Charlevoix side.
- Q How many shots did you hear?
- A Possibly fifteen or twenty.
- Q Did you see anybody in back of the Sweet house?
- A Yes, sir.
- Q Whereabouts?
- A On the back porch.
- Q How many did you see there?
- A Two.
- Q What were the men doing that you saw there?
- A They were just coming out on to the porch, and went back in there.
- Q Were they men or women or children?
- A Men.
- Q Two men. How long did you remain crouched down on the roof?
- MR. DARROW: He didn't say crouched.
- Q He did.
- A Possibly ten minutes.
- Q Did you hear more than one volley of shots?
- A No, sir.
- Q Where did you go then?

A Down.

Q And after you got down, where did you go?

A Went to the front of the Sweet house.

Q And did you go into the house?

A No, sir.

Q Were there any citizens at that time around the front of the Sweet house?

A No, sir, they were kept back.

Q What did you do - - how long did you remain in the house?

A Until the sergeant told me to go to the south side of Charlevoix, I with my partner.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Your name is Stanke?

A Stanke, yes, sir.

Q You went down there to Charlevoix and Garland on the 9th?

A Yes, sir.

Q At four o'clock in the afternoon?

A Yes, sir.

Q You were in the flivver with Doran?

A Yes, sir.

Q How long did you stay there in the machine?

A Until about eight o'clock.

Q You sat in the machine all the while?

A Yes, sir.

Q You were in the back seat, or did you go and sit in the

front?

A Both sat in the front seat.

Q Was it a warm day?

A Yes, sir.

Q It must have got kind of hot sitting all day?

A Not actually.

Q What?

MR. KENNEDY: A little louder.

A Not too hot.

Q Well - -

MR. TAMS: It got later.

Q You had all your uniform on?

A Yes, sir.

Q Was you doing anything sitting there?

A Just looking around, was all.

Q What were you looking at?

A Nothing in particular.

Q It isn't any special scenery down there?

A No, sir.

Q Did you see anything at all when you were looking around?

A Why, nothing out of the ordinary.

Q Did you see anything in the ordinary?

A Well, just people going about their business, that was about all.

Q Just what business were they going about?

A I don't know.

Q You don't know?

A No, sir.

Q Still you knew they were going about it?

A They were going by there, the same as ordinary.

Q Did you have any special directions as to what you was to do?

A We were to be there to protect the -- keep the public peace if there should be a disturbance.

Q Just general directions to keep the public peace if there should be any breach of the peace?

A Yes, sir.

Q Did you get your directions together, or separate?

A We were working special.

Q What?

A We were working special detail.

Q Where did you get your directions?

MR. TOMS: Keep your voice up. I can't hear you at all.

A I beg your pardon.

Q Where did you get your directions?

A From the station house.

Q Were you there together? What?

A No, the inspector talked to Doran and myself separately.

Q What were your directions?

A Just what I have said.

Q You weren't detailed on watching out there for stones, were you?

A Why, for anything that should be --

Q Anything happened to be flying around?

A Yes, sir.

Q You didn't see or hear any stones, I suppose?

A No, sir.

Q Well, did you see anything worth reporting?

A I don't understand that.

Q Did you see anything at all worth observing up to the time that the shooting began?

A No, sir.

Q You went up on top of the apartment building, didn't you?

A Yes, sir.

Q Who directed you to go up there?

A Sergeant.

Q You couldn't see any better there than you could down below, could you?

A No, sir.

Q You did see two men come out on the back porch of the Sweet house?

A Yes, sir.

Q What did they do?

A They just turned around and went back in again.

Q They came out and turned around and went back?

A Yes, sir.

Q How long did they stay out there?

A Possibly ten or twenty seconds.

Q When was that, before the shooting or after?

A Right after.

Q Did you see anybody on the corner where you were posted, any people?

A Not on the street.

Q Well, did you see them in the schoolhouse yard?

A Yes, a few people there.

Q What?

A There was a few there?

Q Whereabouts?

A In the schoolhouse yard, in the front.

Q What part of it, in front?

A In front, yes, sir, on the lawn.

Q What do you mean by "a few"?

A Possibly ten, fifteen.

Q What?

A Possibly ten or fifteen.

Q Possibly twenty-five or thirty?

A Well, I wouldn't think it was that much.

Q You didn't make any estimate of them though?

A No, not to be exact.

Q No. You didn't try to make an estimate?

A No, sir.

Q Now, what was your best judgment of how many you saw?

A Possibly fifteen.

Q What?

A About fifteen.

Q And where were they?

A They were on the lawn in front of the school.

Q How far from the street?

A Oh, about half way between the school and the street.

Q Now, if you will look over here, just a minute, this is supposed to be the schoolhouse property. Now, there is a

path all about the center of this lot in here, isn't there, or don't you know?

A Doorway leading in there, yes, sir. I believe it is the center.

Q There is a yard in front, and a yard all around the building, isn't there?

A Yes, sir.

MR. TOMS: Speak louder, will you, officer.

Q If any of you gentlemen see that I don't get this right, call my attention to this. I want to see -- to be sure it is right, now, I want the absolute truth. There was a yard all the way around it, and a path leading up to the door, somewhere about the center of the lot, wasn't there?

A That is off of Charlevcix?

Q No. Garland?

A Off of Garland, yes, sir.

Q Where you saw these people was north of that path, wasn't it? The northwest part of the yard?

A Yes. There was some in there.

Q That is what you are talking about, isn't it?

A Yes, sir.

Q How far from the street corner?

A About half way between the schoolhouse and the street.

Q Yes. You don't know how long that is? How many feet it is, about?

A No, I don't.

Q Were they there all afternoon?

A No, sir.

A No, sir.

Q What part of the afternoon or evening?

A Why, they would come and go.

Q They were coming and going?

A People would meet and they - -

Q What?

A People would meet and visit there.

Q Yes. You didn't hear what they visited about?

A No, sir.

Q You don't know how long any particular ones stayed?

A No.

Q On the morning there was about fifteen there most of the time, is that right?

A Not most of the time - - just this particular time when I left there.

Q How many were there there before that?

A Why, before that, very few.

Q What?

A Less than this.

Q Well, how much less?

A Well, at different times there probably would be ten there, and then there would be maybe one or two there.

Q Do you know any times there was one or two?

A Yes.

Q When?

A In the early part of the evening.

Q What time?

A About six, six thirty.

Q Sometimes ten, sometimes one or two, sometimes fifteen?

A Yes.

Q And you don't know but what there were more, do you?

A No, I don't think there were more. I am positive.

Q What?

A I am almost positive of that. There were very few more.

Q Did you count them at any time?

A No, sir, no, sir.

Q Now, do you know whether there was any other people on any other part of the yard?

A No, sir.

Q You don't know, is that it?

A I don't know.

Q Do you know whether there were any people standing around the corner and in front of it?

MR. TOMS: That is indefinite.

MR. DARROW: All right. We will make it more definite.

Q Around the corner of Charlevoix and Garland, and in front of the schoolhouse on either Charlevoix or Garland.

A Yes, there people sitting on the porches, on Charlevix.

Q And they were in porches there, were they? Well, that is right. I am referring again to the schoolhouse corner.

A Well, those people were on the schoolhouse grounds.

Q Well, were there any outside of the schoolhouse grounds, in front of the schoolhouse, either on the Garland or Charlevoix side?

A No.

Q The street?

A No, sir.

Q Nobody?

A No.

Q At any time while you were there?

A No.

Q Is that right?

MR. KENNEDY: Just a minute. I object to that question. Your Honor, the officer has already stated there were about fifteen there.

MR. DARROW: He said they were back on the yard.

MR. KENNEDY: He is talking about the lawn, the schoolhouse.

MR. DARROW: I don't see how he could make a mistake in my questions if he does, let's have it so that he can --

MR. KENNEDY: You mean the sidewalk?

MR. DARROW: The sidewalk or the front of it, that is what you said, my last question.

A Well, there was nobody there.

Q Yes. At any time?

A Outside of walking up and down there.

Q Well, nobody standing there at any time?

A No, sir.

Q How did you know? Did you look?

A Yes.

Q At ~~any~~^{no} time did you see anybody that stopped?

A As soon as they would, they moved them.

Q Well, did you move anybody?

A Yes, sir.

Q How often did you move anybody?

A Whenever I would see that there was no other officer right there.

Q Was there some other officer there all the time ?

A Almost.

Q Did you see him moving them all the time?

A Yes, sir.

Q That is the reason you say there was nobody there because the officer was moving them, is it?

A If they stopped, we moved them.

Q Did they stop?

A Sometimes.

Q You did move them?

A Yes, sir.

Q Now, was there anybody standing on the other side of the street? Now, I mean @ - -

A No, sir.

Q On the other side of Garland, across from the schoolhouse, at any time?

A People out of the apartment were on their own lawns.

Q Do you know the people living in the apartment?

A No, sir.

Q How did you know they were out of the apartment?

A Because I asked them.

Q What?

A I asked them.

Q Did you inquire of anybody over there, where they lived?

A Yes, sir.

Q Who?

A One elderly man, in particular.

Q Anybody else?

A No, sir. He pointed out the other people and said "We all live here."

Q Yes. When was this? What time?

A This was about seven o'clock.

Q What did you say to him?

A I just asked him what he was waiting for.

Q And he said, "We all live here"?

A Yes, sir.

Q How many were there at that time?

A At that particular time, I believe it was six.

Q Did you count them?

A Why, I looked over the crowd. I couldn't be positive on it.

Q You couldn't. Can you describe any of them?

A Yes, an elderly man, the man I spoke to, possibly 50 years old.

Q Can you describe any of the rest?

A The lady there.

Q You don't count fifty elderly, do you?

MR. TOMS: From his point of view, it is.

Q Well, then you took his word for it, and didn't ask any further?

A Yes, sir.

- Q Did you see any further citizens on that side of the street?
- A You mean did I see any people there?
- Q See any people, yes?
- A No, sir - -
- Q What?
- A No, sir.
- Q Did you go away from the machine, step up to the corner, right around there, at any time?
- A No, sir.
- Q Now, did you see anybody north of Charlevoix along Garland, on the east side?
- A People out there on their porches and lawns, that is all.
- Q Do you know how many?
- A No, sir.
- Q Did you go up to see?
- A No, sir.
- Q Have you any idea of how many?
- A No, sir.
- Q Have you any idea where they were?
- A They were on their lawns and porches.
- Q How did you know it was theirs they were on?
- A I don't know.
- Q You didn't ask this old man, fifty years old at the corner whether the people out there were on their own premises, did you?
- A No, sir.
- Q Or anybody else?
- A No, sir.

Q Do you know whether there was anybody outside on the --
the other side of Garland Avenue?

A On the west side?

Q After you got a house or two below the Sweet house, or
north of it?

A I didn't see any there.

Q Did you look?

A Yes.

Q What?

A Yes.

Q Was there anybody there?

A I didn't see.

Q At any time?

A No, sir.

Q See anybody go in the store?

A Yes, sir.

Q How many?

A I don't know.

Q Any idea?

A No, sir.

Q Any idea who they were?

A No, sir.

Q You can't give any estimate of this?

A No, sir.

Q There are other stores along there, on the south side
of Charlevoix in that block, aren't there?

A Yes, sir.

Q See anybody in those stores?

A Yes, sir.

Q Do you know how many?

A No, sir.

Q Pay any attention to them?

A No, sir.

Q Didn't keep any track of them at all?

A No, sir.

Q How - -

MR. TOMS: Didn't you mis@peak there? That is, you meant the north side?

MR. DARROW: Did I say the south side? I said then on the south side. I am glad you corrected me. The last question I referred were the stores on the north side of Charlevoix. That would be adjoining the - - practically adjoining the grocery?

A Yes, sir.

Q And your answer ~~that~~ to that meant to apply to those?

A Yes, sir.

Q Did you go up to the alley at any time?

A No, sir.

Q You went away a while, didn't you?

A I left the car about 8 o'clock, yes.

Q You left your partner at that time?

A Yes, sir.

Q He stopped in the car, as far as you know?

A Yes, sir.

Q And you went up on the roof?

A Yes, sir.

Q That is all. Wait a minute. Streets are level there, aren't they, or on one grade, around there?

A No, between Hurlbut and Garland there is grade there.

Q What?

A Between Hurlbut and Garland, or Bewick and Garland rather.

Q Bewick and Garland, it slopes down, does it?

A Yes, sir.

Q ~~It~~ Not much, does it?

A No, sir.

Q Well, now, did you talk to any of the people on the schoolhouse yard?

A No, sir.

Q Didn't ask them anything about their business, or why they were there at any time?

A No, sir.

Q The only -- ^{only} the/ones you did talk with was this old man?

A Yes, sir.

Q Did he look suspicious outside of his age?

A No, sir.

Q Now, let me ask you a little about this schoolhouse that I forgot? (Indicating): This is Charlevoix and this is Garland, around on the Charlevoix and Garland front, by the sidewalk, there is no fence, is there?

A No, sir.

Q Now, beyond there -- down beyond the place where they go into the schoolhouse, the walk into the school, you remember that, don't you?

A Yes.

Q There is a fence?

A Yes, sir.

Q But when you go up the walk, you can go into that yard, right off the walk, can you?

A Yes, sir.

(Mr. Toms explained to Mr. Darrow, referring to the map.)

MR. TOMS: That is where the fence starts.

Q Now, may it be agreed, you just watch that to see that it is right. Now, these last marks, one of them is put in running from the south side of Charlevoix, and on the right that contains the apartment, that is put in by counsel, and not meant to be accurate as to measurement, but to show about where the building line is.

MR. TOMS: Yes, that is accurate measurement.

MR. DARROW: It is?

MR. TOMS: Yes.

MR. DARROW: Then, let it go just as it is.

Now, it may be stipulated, may it not, that the schoolhouse yard beginning at the corner of Charlevoix and Garland, runs back 65 feet south, and also runs west - -

MR. TOMS: East, that is.

MR. DARROW: East to the alley, and on that portion there is no fence.

MR. KENNEDY: East to the St. Clair - -

MR. TOMS: There is no alley there.

MR. DARROW: East St. Clair, and ^{on} that portion is no fence.

MR. TOMS: That is right.

MR. DARROW: Beginning at 65 feet south of the corner on Garland, there is a stone pathway, or stone walk up to the schoolhouse, and the fence commences at that point about 65 feet south of Charlevoix, and runs south to the end of the schoolhouse yard. That is a high fence, isn't it?

MR. TOMS: Set back about seven feet from the lot line.

MR. DARROW: Set back about seven feet from the lot, when you get into the schoolhouse yard from the walk, after passing about 70 feet. It is open from the walk to the yard on both -- on the south side. All right.

THE COURT: We will take a recess at this time.

(Recess.)

- - -

Take 2
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ERNEST STANKE, was thereupon recalled as a witness, and having been previously sworn, testified as follows:

CROSS EXAMINATION

BY MR. DARROW:

Q Did you ever go over in the school house yard?

A Was I ever in the school house yard?

Q Yes.

A Yes.

Q Do you know what its condition was at that time, at the time you were there the 9th day of September?

MR. MOLL: With reference to what?

Q Well, that is a general question. Do you know whether they were paving the school house yard at that time, and whether there were paving stones there and cobblestones of all sizes?

A Not at that time.

Q Do you know about it?

A No, I did not know that they were paving.

MR. DARROW: That is all.

MR. KENNEDY: That is all.

MR. TOMS: There was one correction on this diagram (indicating).

A JUROR: On the apartment house he said there was a ledge around the roof. This man claims that he was blocked off on the roof when he heard the shots. How could he see over there?

REDIRECT EXAMINATION

BY MR. KENNEDY:

Q You say when the shots were fired, you fell down on the roof, is that right?

A Yes, sir.

Q Is there a ledge around the top of that roof?

A Yes, sir.

Q It is a flat roof, isn't it?

A Yes, sir.

Q How high is the ledge, if you remember?

A About 14 inches.

Q Could you see after you fell down on the roof there?

A Yes, sir.

Q How did you see?

A By raising myself high enough so that I could see over the ledge and still not expose my whole body.

MR. KENNEDY: That is all.

RECROSS EXAMINATION

BY MR. DARROW:

Q You could not see without exposing your head, could you?

A No, sir.

Q That is a pretty important part of the body of a policeman?

A It is a small mark though.

Q Were you told to go up on the roof or did you go there of your own accord?

A I was told to.

Q Who told you?

A Sergeant Weighbauer.

MR. DARROW: That is all.

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B E R T M c P H E R S O N, was thereupon called as a witness on behalf of the People herein, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

Q Your name is Bert McPherson?

A Yes, sir.

Q You are a member of the Detroit Police Department?

A Yes, sir.

Q Inspector?

A Of Detectives.

Q What particular branch?

A Of the socalled Black Hand Squad.

Q Has the Black Hand Squad a particular duty or assignment?

A Yes, sir.

Q What is it?

A They take care of Italians and colored people.

Q Do you know the defendant in this case, Ossian Sweet?

A Yes, sir.

Q When did you first meet him?

A September 8th.

Q Of this year?

A Yes, sir.

Q Where did you meet him?

A On Garland Avenue.

Q Do you know where his home is at the corner of Garland and Charlevoix?

A Yes, sir.

Q Did you see him at that particular place?

A Yes, sir.

Q About what time on September 8th?

A It was in the forenoon when he was moving in there, just after he got the stuff in the house.

Q You went up to the home?

A Yes, sir.

Q Did you see anyone else besides the doctor, Dr. Sweet?

A Yes, I seen his wife and a couple of other gentlemen around there.

Q Did you talk to Dr. Sweet?

A Yes, sir.

Q Who was present?

A His wife was there and a couple of other boys.

Q Were the other boys within hearing?

A Well, yes, they were.

Q Did you talk inside of the house or outside?

A Outside.

Q Do you remember what room you were in?

A It was the room as you go in the door.

Q That would be the front living room?

A Yes, sir.

Q You saw Dr. Sweet. What did he say to you and what did you say to Dr. Sweet?

A I told Dr. Sweet that I was Inspector McPherson, introduced myself. He shook hands with me and said he was glad to meet me. He introduced his wife to me. I told them that I was out there for the purpose of giving them protection if they needed it. He thanked me. I told him that any time of the day or night that he seen anything that looked suspicious to call me at any time. He thanked me very kindly, and I went out.

Q Where was Mrs. Sweet when this conversation was held?

A Well, I do not know whether Mrs. Sweet was there at the time of that conversation or not, but she was right there on the lower floor.

Q Did you meet Mrs. Sweet?

A I did.

Q Were these other two men you saw there colored men or white men?

A Colored men.

Q Do you think you could identify them if you saw them?

A Well, I think I could.

Q Will you take a look at the defendants sitting over there in the box and say whether or not you saw any one there that you saw at Dr. Sweet's house there that day?

A The man next to him.

Q Next to Dr. Sweet?

A Next to Dr. Sweet, and this little man there in the white collar and brown suit.

Q Go over and point them out, Inspector, will you?

MR. DARROW: We can have them stand up.

THE COURT: So long as their names are stated on the record.

MR. DARROW: You mean the man sitting next to Dr. Sweet?

A Yes, sir.

MR. DARROW: What is your name?

MR. ROWLETTE: Otis Sweet.

MR. DARROW: What is the name of the next man?

MR. ROWLETTE: Charles Washington.

A Then there was a third gentleman there.

MR. DARROW: You do not see him?

A No.

Q Do you know whether there was a telephone in the house there, Inspector?

MR. DARROW: Of course, your Honor, any testimony of this witness as to this particular evidence, his conversation would be considered only as against those who heard it.

THE COURT: Yes, that is correct.

MR. DARROW: Very well.

MR. MOLL: I think there is some question as to the correctness of that statement. I disagree with it. I think we can produce some law to the contrary.

MR. DARROW: Well -

MR. MOLL: That where there is a conspiracy on foot, which we claim here, that testimony in the way of admissions or declarations during the course of that conspiracy are admissible against all of the defendants.

THE COURT: At this time I do not believe you have established the proof of that, Mr. Moll.

MR. MOLL: Of the conspiracy?

THE COURT: Yes.

MR. MOLL: Our whole proof has been directed to that.

MR. DARROW: Well, that is a question that we shall wish to argue.

THE COURT: At this time the admissions that have been made on the record by Dr. Sweet to Inspector McPherson at admissible only as against Dr. Sweet. I will hear you later on that, Mr. Moll.

MR. MOLL: I beg your pardon.

A I will hear you later on that.

MR. MOLL: Very well, your Honor.

Q (By Mr. Kennedy, continuing): Were there any police officers outside of the house at the time you went there, Inspector?

A Yes, sir.

Q What were they doing that you observed?

A They were standing around on the corner and one at the alley, and I told them to get in the buildings, that it would draw a crowd if they seen the officers around there.

MR. DARROW: Will you read that answer?

(The answer was read)

Q Then did you leave the Sweet home, that vicinity?

A I stayed around there probably 15 or 20 minutes longer, and then I left.

Q Did you observe anything unusual?

MR. DARROW: I ask to strike that answer out as what he told the police officers. It is not competent as against the defendants.

THE COURT: What he told the officers?

MR. DARROW: What he told the officers.

THE COURT: What he told the officers may be stricken from the record.

Q Did you give certain instructions to the police officers?

A Yes, sir.

Q After you left, did you go back to headquarters?

A Yes, sir.

Q From that time until the 10th day of September, 1925, did you receive any communication from Dr. Sweet?

A No, sir.

Q Did anyone come to you in behalf of Dr. Sweet at that time?

A No, sir.

MR. KENNEDY: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q Were you there at any other time during the 8th?

A Yes, I was there the evening of the 8th.

Q How long?

A I was there for probably two or three hours.

Q Around the place, I suppose?

A Yes, sir.

Q What time was this conversation that you have described?

MR. DARROW: Beg pardon.

THE COURT: What was the exact time of this conversation with Dr. Sweet? I want that on the record.

MR. DARROW: I was going to get at that. I will ask what the Judge suggested first.

A I couldn't state the exact time, your Honor.

THE COURT: About when?

A It was some time before - when he first moved in; as soon as they get the stuff in the house, I was there.

Q In the morning, wasn't it?

A I think it was some place around before noon.

Q Some time in the forenoon, wasn't it?

A Yes.

Q I think that is what the evidence shows. And Mrs. Sweet was in the adjoining room when that conversation took place?

A I am not so sure about that. I think she was right in the same room.

Q Are you sure about that?

A No, I am not sure about it.

Q Are you sure that anybody else was in the same room?

A Yes, there was others in the same room.

Q Did you speak to anybody else?

A No, sir, I talked to Dr.Sweet, that was the only one.

Q Now, you say you were there from three o'clock in the afternoon until about what time?

A I didn't say three o'clock.

Q What time did you say? I think you said "two or three hours"

A Well, I got over there about 7 o'clock in the evening.

Q You said two or three hours?

A Yes.

Q And that was before 7 o'clock?

A I stayed there until about a quarter past 11.

Q Were you there at any time on the 9th?

A No, sir.

Q Do you know the telephone number of Dr.Sweet?

A No, sir.

Q You did not take it, did you?

A No, sir.

MR. DARROW: That is all.

MR.KENNEDY: That is all.

(Witness excused)

- - - -

R O Y S S G H A L D E N B R A N D, was thereupon called as a witness on behalf of the Prosecution, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. KENNEDY:

- Q Your name is Roy Schaldenbrand?
- A Yes.
- Q You are a member of the Detroit Police Department?
- A Yes.
- Q Attached to the McClellan Avenue Station, 5th Precinct?
- A Yes.
- Q Were you such on the 9th day of September, 1925?
- A I was.
- Q Do you know where the Sweet home is located, at the corner of Charlevoix and Garland?
- A I do.
- Q Were you in that vicinity the 9th of September of this year?
- A I was.
- Q What time did you get there?
- A About 4 o'clock in the afternoon.
- Q Were you in uniform or plain clothes?
- A Plain clothes.
- Q Did you go there with other officers or alone?
- A With other officers.
- Q And after you got there, they gave you a certain beat to patrol?
- A Yes - well, not exactly a certain beat.

Q You were given a station?

A Yes, sir.

Q Where was that?

A On Charlevoix and on Garland.

Q What particular part of Charlevoix and Garland? I mean was it the east or west, or north or south? What particular corner?

A Well, it really did not make any difference.

Q What place did you spend the most of your time at?

A On the southeast corner - the southwest corner.

Q The southwest corner?

A Yes.

Q Is that the corner that the apartment house is on?

A Yes, sir.

Q How long did you remain there?

A Practically all afternoon and evening.

Q Were you there at the time of the shooting?

A Yes, sir.

Q Just where were you when the shooting started?

A On top of the apartment house.

MR. DARROW: Where.

Q (By Mr. Kennedy): Where?

A On top of the apartment house.

Q When did you go to the top of the apartment house?

A Oh, about a quarter after eight.

Q Were you directed to go there or did you go of your own initiative?

A I was directed to go there.

Q By whom?

A Sergeant Neighbamer.

Q Prior to that time, you were in the vicinity of the southwest corner, is that correct?

A Yes.

Q Before you went upon the apartment house, did you observe the number of people who were around that particular corner, on the southwest corner?

A About four or five.

Q And where were they?

A Some of them were on the west side - on the east side of the apartment house, on that lawn there.

Q Is there a lawn facing the apartment on Garland? You mean in front of the apartment on the Garland Avenue side- is that the lawn you are referring to?

A Yes, sir.

Q Did you see any missiles or stones of any kind thrown at the Sweet house?

A I did not.

Q Did you hear anything strike the Sweet house?

A No, sir.

Q What were you doing at that corner from four until a quarter to eight?

A Walked up and down.

Q Were you given certain instructions by your superior officer?

A To preserve peace and order.

Q Did you do that?

A I did.

Q Why did you go upon the roof of the house?

A I was detailed to go up there.

Q And when you got up there, did you find anyone up there?

A No, sir.

Q How high is that apartment?

A Two stories.

Q And the roof is a flat roof, is it?

A Yes, sir.

Q Is there any ledge around the roof?

A Yes, sir.

Q Do you know Officer Ernest Stanke?

A Yes, sir.

Q Did you see him?

A Yes, sir, I did.

Q Whereabouts?

A He was just ahead of me when we went up there.

Q On the roof?

A Yes, sir.

Q And after you got up on the roof what did you do?

A As I started walking towards the edge of the roof, the firing started.

Q Could you tell where that firing came from?

A I could just see it.

Q Where did you see it?

A Out of the upper windows of the Charlevoix side of this house.

Q And what did you do then?

A I lied down on the roof.

Q Did you have your head up over the ledge at that time?

A I crept up close to it.

Q Could you see while you were lying down, over to the Sweet residence, or did you keep your head down?

A After I got towards the edge of the roof, I looked over the top of it.

Q And how many shots if you remember, did you hear, fired?

A About 15.

Q And after the firing stopped, what did you do?

A Why, we stayed up there a few minutes and then came down.

Q Did you go to the Sweet house?

A No, sir.

Q Did you go in it at any time?

A No, sir.

Q Up until the time you went upon the roof, had you observed any disturbance of any kind around the neighborhood?

A None whatever.

Q Did you see anyone on the Sweet premises, or the sidewalk surrounding it, outside of police officers?

A No, sir.

Q At the time of the shooting, did you see anyone?

MR. DARROW: Where do you mean?

MR. KENNEDY: In the Sweet premises.

A At the time of the shooting?

Q Yes.

A Well, I couldn't see the ground.

Q Well, I mean any part; could you see the upper part of the

2 house?

A Yes.

Q Did you see any one there?

A No, sir.

MR. KENNEDY: Cross examine.

MR. DARROW: You were around there how long?

MR. KENNEDY: Just one further question, Mr. Darrow.

Q (By Mr. Kennedy): How long did you remain there, Mr. Schaldenbrand?

A 12 o'clock.

Q Where were you after the shooting up until 12?

A I came back down on the street.

Q And what part of the street did you stay at until 12 o'clock,

A Around the same vicinity, on Charlevoix, and on Garland.

Q As far as you could observe, was anyone,—I mean outside of police officers,—was any citizen permitted to go on the Sweet porch or house, or on the ground surrounding it?

A No sir.

Q Did anyone remove anything from the Sweet premises, outside of police officers, when they took the prisoners out?

A No.

MR KENNEDY: Cross-examine.

MR DARROW: Just a minute.

CROSS EXAMINATION

(By Mr. Darrow):

Q You went down there in the neighborhood of that corner at what time? About three o'clock?

- A About four o'clock.
- Q And you were stationed on the southwest corner, across from the Sweet house,?
- A Yes sir.
- Q And there is an apartment building there?
- A Yes sir.
- Q You stayed there most all afternoon and evening?
- A I did.
- Q You saw three or four people in front of that apartment building, did you not?
- A Sir?
- Q You saw three or four people standing in front of that apartment building, did you?
- A Yes, sir.
- Q Were they standing there all of the time?
- A No sir.
- Q How long did they stay there?
- A Well, they were not permitted to stay there very long. They were moved on as soon as they did stay.
- Q Well, did you fire them out?
- A Another office did.
- Q Which one?
- A I would not know him.
- Q Were they the only ones who were moved?
- A Anybody who came along and stopped was moved.
- Q You were doing that all afternoon, weren't you and evening?
- A Yes, sir.
- Q Did anybody go there? If anybody came there, you would

drive them along?

A Yes, sir.

Q When any number would congregate, you dispersed them?

A Yes.

Q And that was the rule all of the time while you were there?

A Yes, sir.

Q Did you go down around the corner on Garland?

A Occasionally.

Q Did you do the same thing around there?

A I did.

Q How often would you go around there?

A Whenever anybody would come around there.

Q Well, they could come from the street south of there and you not see them without going around, couldn't they?

A If I would walk up that way, I would move them.

Q How often did you go up here or up to the corner?

A Well, quite a number of times.

Q You only had a short beat, didn't you?

A Yes, sir.

Q And you watched on both sides?

A Yes, sir.

Q And kept them moving on both sides?

A Yes, sir.

Q ^{If} any people congregated, you dispersed them?

A Yes.

Q That continued up to the time you went on the roof?

A Yes, sir.

Q Most of your attention was directed to that corner, was it

not where you were stationed?

A Yes, sir.

Q And the other policeman who was with you, his attention was directed to the same corner; you had two on that corner?

A Yes.

Q Who was the other policeman?

A Jay King.

Q What time did you say you went upon the roof?

A A quarter after eight.

Q Who went up first, you or the other officer?

A The other officer.

Q You were together, but he preceded you?

A Yes, sir.

Q But you were right along with him?

A Yes, sir.

Q How big is that roof? Do you know about what the size of it was?

A I couldn't tell you the exact size, no, sir.

Q Did it cover the top of the building?

A Yes, sir.

Q And up towards Garland Avenue, - was this coping, or whatever it was - was that on the Garland Avenue side?

A On the Charlevoix side.

Q On the Charlevoix side?

A Yes.

Q Was it open on the Garland Avenue side? Was there anything on the Garland Avenue side in the way of coping, or anything built there?

A I didn't notice.

Q You don't know whether there was anything there or not?

A No, sir.

Q But you did notice it on the Charlevoix Avenue side?

A Yes, sir.

Q How high was that?

A About two feet.

Q What was it built of?

A Brick.

Q And where was the other policeman, what part of the room?

A Right near me.

Q Which was the farthest north, do you know?

MR. TOMS: North? You do not mean north?

MR. DARROW: Yes, I mean north. This is the corner where this roof is, of that apartment building, right in here (indicating on diagram).

A Yes.

Q Here is the school house. Here is the apartment building (indicating on diagram).

A Yes, sir.

Q Now, it came up flush with the street, with Charlevoix?

A Yes, sir.

Q And what part of the roof were you on?

A Up against Charlevoix.

Q Well, yes, up against Charlevoix; both of you?

A Yes.

Q As near Charlevoix as you could get?

A Up against the ledge up there.

Q How close together were you?

A Within a few feet.

Q How long did you stay on the roof?

A Possibly ten minutes.

Q How long were you there before the shooting began?

A Just where do you mean?

Q On the roof, at any point on the roof?

A I no more than got up there and the firing started.

Q And you stayed ten minutes after it was over?

A About that.

Q How long did the firing take?

A A few moments.

Q What did you go up there for?

A To see if anybody was up there causing a disturbance.

Q Any other reason?

A No, sir.

Q It did not take you long to see whether there was anybody up there, did it?

A No, sir.

Q You did not do anything else up there, except to see whether there was anybody up there, did you?

A That is all.

MR. DARROW: That is all.

MR. KENNEDY: That is all.

(Witness excused)

THE COURT: We will adjourn until 2 o'clock.

(Whereupon a recess was taken until 2 o'clock

P.M. Friday November 13, 1925).

Howse

Friday, November 13, 1935

2:00 o'clock P.M.

RILEY BURTON, was thereupon called as a witness on behalf of the People herein, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q What is your name?

A Riley Burton.

Q Were you a patrolman of the Detroit Police Department on the 9th of September?

A Yes, sir.

Q Where were you stationed that night?

A I was detailed at Garland and Charlevoix.

Q How long had you been detailed there?

A Since 3 o'clock.

Q Were you there the day before?

A No, sir.

Q That was the first time you had been there?

A Yes, sir.

Q Were you detailed with other officers?

A Yes, sir.

Q When you got to that intersection, where did you go?

A I was detailed in the alley at the back of the house.

Q In the alley back of the house? In the alley back of what

house?

A 2905 Garland.

Q That is the Sweet residence, northwest corner?

A Yes, sir.

Q Were you there all of the time?

A No, sir, not all of the time.

Q Where else did you go?

A We changed off every 30 minutes. I changed with another patrolman.

Q When you changed with him, where did you go?

A I went in a tire shop.

Q That is the tire shop east of Garland Avenue?

A Yes, sir.

Q How long were you there?

A At the tire shop?

Q No, how long were you in that vicinity?

A Until 11 o'clock, 11:30 probably.

Q Did you hear some shots at any time during the evening?

A Yes, sir.

Q Where were you at the time you heard them?

A I was on the south side of the house, about even with the window.

Q There are a number of windows on the south side; near the front or the rear?

A Well, the large middle window.

Q Well, were you on the sidewalk?

A Yes, sir.

Q I will show you Exhibit 3, showing the both sides of the

Sweet house. Can you point on this picture to the window that you testified about?

A About where I was standing?

Q Yes.

A It was somewheres near this fire hydrant here (indicating on photograph).

Q Somewheres near the fire hydrant?

A Yes, sir.

Q On the south side of the house?

A Yes, sir.

Q What did you see and hear at that time?

A Well, I just seen and heard the shots; I seen the fire flying from the windows.

Q From which windows?

A The windows on the south side of the house.

Q The same side you were on?

A Yes.

Q What floor?

A The second floor.

Q How many shots did you hear?

A Well, I judge anywhere from 25 to 30 shots.

Q Were they all in one volley, or were they separated?

A Well, they were all fired in a very short time. If there was any second volley, they were all fired so close together that I could not tell.

Q Practically a continuous fire?

A Yes, sir.

Q Then what did you do?

A What did I do then?

Q Yes.

A Well, there was some automobiles on Charlevoix; and when the shooting began they commenced trying to stop, the traffic did; and I stepped off the curb and started the automobiles

Q Which way were they going?

A They were going both ways, east and west.

Q East and west?

A Yes.

Q When the shooting finished, you stepped off the curb, and what?

A When it started, there was a couple of cars stopped right in front of me, just as the shooting began. So that I stepped off the curb and started the automobiles on.

Q You kept them moving?

A Yes.

Q Now ^{what were} your orders when you went down there?

A To preserve ^{the} peace.

Q In any particular with reference to traffic, either automobiles or pedestrians?

A Well, we had orders not to leave anybody stop anywhere near Dr. Sweet's home, to keep the people moving.

Q After you got the automobiles in motion, then what did you do?

A The shooting was over then.

Q What did you do?

A There was a number of people gathered around, and I helped get the people back over to the corner of St. Clair; that is

where I was relieved from.

Q After the shooting, did people congregate on the side of the street where the Sweet house is?

A Where the house was?

Q Yes.

A No, sir.

Q Why not?

A We would not let them. We had them back a block each way.

Q You kept them back a block each way?

A Yes.

Q As to the conditions in that neighborhood from the time you went there shortly after 3 o'clock, until the time of the shooting, did you hear any disturbance?

A No, sir.

Q At any time did you hear anything thrown at the Sweet house?

A No, sir.

Q Or hear it strike?

A No, sir.

Q Standing where you were, you did not see any shooting from any other side of the house?

A It would be impossible; I couldn't.

Q What about crowds congregating, between 7 o'clock and the time of the shooting?

A Well, between 7 and the time of the shooting?

Q At the time, I went from 7 o'clock - to narrow it down from 7 o'clock until 8:25.

A Well, after - when 7 o'clock comes, I took a detail study back there in the alley. I didn't change off; and, where I

was from, I couldn't see in any way.

Q How long before the shooting, did you come out onto Charlevoix.

A Probably a minute.

Q Long enough for you to walk from the alley to the place where you were?

A I just had walked there.

Q Did you observe the conditions at that time?

A Yes, there was not any one on the side of the street I was on.

Q Did you notice any group or crowd anywhere?

A There was some people sitting in the door of an apartment across the street from where I was at.

Q That is on the south side of Charlevoix?

A Yes.

Q You say sitting in the door?

A Yes, sitting on the steps where it goes up.

Q The steps do not extend out beyond the wall from the apartment; they recess in, do they not?

A The doors are even with the side walk I believe. Anyhow they were sitting back in on the steps where they go upstairs.

Q Anyhow, there are a couple of steps before you come to the door?

A I don't know that.

Q Well, there is a step anyway; we will agree upon that.

A Yes.

Q How many people did you see over there?

A Well, there was four or five, women and children, sitting on those steps.

Q Some men?

End House
BDC Fols
8:30

A Possibly a couple of men.

Q Did you hear any threats directed towards the Sweet house?

A No, sir.

Q Did you hear any shouts from any direction?

A No, sir.

Q At any time?

A No, sir.

MR. TOMS: Cross examine. Just a minute.

(Short interruption)

Q Most of your detail was in the alley?

A Yes, sir.

Q While you were standing in the alley at any time did you see any automobiles driven into the garage?

A I did.

Q What time was that?

A Well, there was one come in about I should judge, six o'clock, somewhere close to six o'clock.

Q How many did you see?

A Two.

Q What time did the other one come in?

A It was later, 6:30.

Q About 6:30?

A Yes, sir.

Q Did you see the people who were in them?

A Yes, sir.

Q How many people were in the first car?

A There were three in the first car.

B3 3.6

Q How many in the second?

A Two.

Q Were they white people or colored people?

A Colored people.

Q Did you see what they did after they got out of the car, where they went?

A Well, the first car, they opened the door and drove into the garage, and shut the doors. There is a high fence there and you can't see over it.

Q Where were you standing when you saw that?

A I was right at the corner of the garage.

Q Which corner, nearest Charlevoix or north?

A Yes, sir, at the south corner right near the entrance on Charlevoix.

Q Turn around and look at this diagram, will you please? This indicates the garage in the rear of the Sweet house, and this is the alley?

A Yes, sir.

Q You mean this corner (indicating)?

A Yes, sir, the side next to Charlevoix.

Q Yes.

A Yes, sir.

Q It was here?

A Yes, sir.

Q Is that right?

A It was right about the corner.

Q They went in the garage?

A Yes, sir.

Q That is the last you saw of them?

A Yes, sir.

Q Isn't there a doorway from the garage into the yard?

A There is a side door.

Q They could get into the yard without your seeing them?

A Yes, sir.

Q Is there a fence around the outside of this yard?

A There is a large plank fence.

Q A board fence?

A Yes, sir.

Q So that you could not see either the car or the occupants after it went into the garage?

A No, sir.

Q Do you know what kind of a car it was?

A It was a Buick coupe.

Q A Buick coupe?

A Yes, sir.

Q What about the second car that you saw?

A It was a Ford sedan.

Q How many people were in that?

A Two.

Q Did it drive into the garage?

A Well, they stopped and got out, one of them got out before they drove their car in.

Q Where did they stop?

A Well, just as it came on the inside of the alley and before they opened the garage doors.

Q One person got out?

A Yes, sir.

Q Were they men or were they men and women?

A There were two men.

Q What did they do, the last two men?

A Well, there was another fellow came around there and opened the door, came out from the front of the house.

Q From the front of the house?

A Yes, sir, walked around the sidewalk on the outside of the house and opened the garage door.

Q Did they drive in then?

A Yes, sir.

Q Do you know where those two men who came up in the automobile and the one who opened the door went?

A They went on the inside of the garage.

Q Is that the last you saw of them?

A Yes, sir.

Q You do not know where they went from there?

A No sir.

Q Would you recognize any of those men if you saw them?

A I would probably recognize one of them.

Q Were any of them carrying anything?

A They took a couple or three bundles out of the Ford sedan.

MR. DARROW: A couple of what?

A Bundles.

Q Could you tell what was in them?

A No, sir.

Q They were wrapped up?

A Yes, sir, there was one of them which was wrapped up in news-

papers.

Q What?

A Wrapped up in a newspaper, one of the bundles.

Q How many bundles were there altogether?

A Well, I would not be sure whether it was three, but I saw two of them.

Q How was the other one wrapped up?

A It was some kind of a leather bag.

Q It was a grip, you mean?

A A traveling bag or grip of some kind.

Q The bundle that was wrapped up in the newspaper, can you describe it as to shape and size?

A Well, it was probably this long and probably that-

MR. DARROW: Wait a minute now.

Q He is indicating about three feet and a half, isn't he?

MR. DARROW: Yes.

Q All right. What shape was it?

A Oh, probably that large around (indicating).

Q About six inches around?

A It was - - I don't know whether you would call that six inches or not.

Q Well, approximately. Was it the same thickness all the way along; describe the shape of it.

A I never paid close attention to it, only I just know it was probably that long and that big around (indicating).

Q Which car did that come in, the first or the second?

A The second car.

Q The sedan?

A Yes, sir.

Q I asked you whether you could recognize anyone of those men if you saw them again. Did you get a good look at them?

A Well, they spoke to me and nodded their heads; they spoke to me and I spoke to them. I didn't pay any particular attention. I think I could remember one of them.

Q When was it that they spoke to you?

A As they drove by me, as they pulled up, I was standing right there and they stopped right there when they drove in.

Q Will you look at the ten male defendants in this case who are seated over there, and see whether you can recognize any one of the man that drove in there. Go over there if you like.

(The witness left the witness stand).

and went over the prisoners' box.)

A These ten men?

Q Yes.

A I think this fellow is the man that came in the Ford sedan (indicating).

Q Indicating the defendant Washington, is that right? Is that the man?

A I think it is, but I would not be sure about it.

Q You think it is but you wouldn't be sure about it?

A No.

Q This defendant whom you have identified came in the Ford sedan, the second car to arrive?

A Well, I would not be sure now about that man, because I didn't pay close attention to those fellows.

MR. DARROW: You said that, officer, that you are not sure about it.

Q It looks like the man, does it?

A Yes, sir.

Q I am asking particularly about which car. You said it was a sedan, didn't you?

A Yes, sir, a Ford sedan.

MR. TOMS: Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q You are sure about his color anyway, aren't you?

A Yes; I would not hardly be mistaken on that.

Q The other fellow was taller or shorter?

A He was taller.

Q You picked out the shortest man over there, didn't you?

A Yes, sir, that is how come me to recognize. I thought it was the ^{small} ~~talk~~ fellow, and the small fellow came in the Ford sedan.

Q Well, we will not quarrel with you about it anyway. How long have you been on the force, officer?

A About 14 months tomorrow.

Q You are kind of a newcomer?

A Sure, a recruiter yet.

Q You live in Detroit now?

A For the last three years.

Q Where did you come from to Detroit?

A Tennessee.

Q Where?

A Tennessee.

Q Dayton?

A No, sir, pretty close to it though.

Q Well, you were assigned to the alley, were you?

A Yes, sir.

Q And you went in there about what time? did you say?

A Well, after 7 o'clock I was not relieved. I stayed in there steady.

Q You did not see much in the alley, did you?

A No, sir, you couldn't see much around there.

Q Anybody come into the alley excepting these people?

A Only other patrolmen.

Q How is that?

A Only other patrolmen would come around.

Q How many patrolmen did they have around the alley or in the alley?

A In the alley?

Q Yes.

A Oh, I was the only one that was detailed there at the time, but they would come around, walk around once in awhile and maybe stop off for a minute.

Q You had one more Tennessean there, didn't you?

A Yes, sir, one more man who said he was from Tennessee.

MR. TOMS: Well, you heard him talk, you did not doubt it, did you?

A No, I don't think I would be mistaken in that.

Q You came out of the alley just before the shooting?

A Just about a minute.

Q You couldn't see very much in a minute, could you?

A Well, I did not see very much.

Q You did see that there was some people across the street who were sitting on the steps of the apartment building?

A Yes, sir, I did see some people over there.

Q You did not have a chance to count them?

A No, I did not count them.

Q That is about all you did^{See}/until the shooting took place?

A Yes, sir, that is all I seen.

Q You stayed there and kept the automobiles moving?

A After the shooting started you mean?

Q Yes.

A That is all I done.

2 Q Before half past seven you were in the alley some of the time too, weren't you?

A Yes, sir, I would be there 30 minutes, and then I would change off for 30 minutes.

Q When you changed off, where did you go?

A I would go out in the tire shop.

Q You divided your time between the tire shop and the alley?

A Yes, sir, only I took part of it to eat.

MR. TOMS: Where, in the alley or in the tire shop?

A I did not eat in the alley.

Q You did not eat there?

A No, sir.

Q Where did you go to eat?

A We ate around in the tire shop; we bought a luncheon and ate it in the tire shop.

Q Well, I won't bother to ask what you had for luncheon.
Did you hear Joe fire a shot?

A I probably heard it, but I was not far enough away so that I could not, but he says he fired a shot, and if he did, I must have heard it.

Q Do you remember whether -- so probably some of the shots you heard were Joe's?

A They probably was.

MR. DARROW: That is all.

MR. TOMS: That is all.

(Witness excused).

W I L L I A M G R O H M, was thereupon called as a witness, and having been duly sworn, testified in behalf of the people, as follows:

BY M

DIRECT EXAMINATION

BY MR. TOMS:

Q Where do you live, Mr. Grohn?

A At 3458 Garland Avenue.

Q That is north of Goethe?

A North of Goethe, yes, sir.

Q Were you on your way home on the night of the 9th of September about a quarter after 8?

A Yes, sir.

Q Walking or driving?

A Driving.

Q Anyone in the car with you?

A No, sir.

Q What kind of a car?

A A Dodge car, a Dodge touring car.

Q What?

A A Dodge touring car.

Q From what direction did you approach the intersection of Garland and Charlevoix?

A I was driving north.

Q What street had you come east on?

A On Kercheval.

Q And then turned north on Garland?

A Yes, sir.

Q What happened after you turned north on Garland?

A I got as far as Waterloo Street and I was stopped by an officer.

Q Go ahead.

A I sort of over-ran. I did not know there was such a thing as a blockade of traffic there, and I over-ran the middle of the block, and the officer stopped me. I wanted to know what it was for. By that time there was some more cars behind me, and finally I told the officer that I lived on that street, and he passed me through.

Q You continued north on Garland?

A I continued north on Garland, yes, sir.

Q Then where did you go, from and what happened?

A I got as far as the school when I heard some shooting, and I slowed down in order to make the stop at Charlevoix,

at the Charlevoix corner. Immediately as I stopped, I happened to look towards the direction that the shots came from.

Q Which direction was that?

A That was across the corner, diagonally across the corner.

Q That would be on the northwest corner?

A The northwest corner.

Q You looked across there and then what happened?

A Two flashes, of two shots.

Q What?

A I saw the flashes of two shots.

Q From what part of the house?

A From the upper rear part of the house.

Q Upper and rear part of the house?

A Yes.

Q Then what happened?

A An officer jumped on my running board and ordered me to drive down to the signal box in order for him to put in a riot call.

Q Which way did you go?

A We went west.

Q On Charlevoix?

A On Charlevoix.

Q How far?

A Two blocks.

Q That is to Hurlbut?

A Yes, sir.

Q The officer was on your running board?

A Yes, sir.

Q Do you know who he was?

A I do not.

Q Do you know now?

A I did hear his name, but I cannot remember it.

Q Did it sound like Shellenberger?

A No.

MR. DARROW: Did it sound like Limburger?

Q Neighbauer?

A That is it, I believe.

Q Sergeant Neighbauer was down there with you?

A Yes, sir.

Q Did he stay there, or did you leave him there?

A No, I took him back.

Q What happened down at that corner?

MR. DARROW: Now, you mean from where?

MR. TOMS: Down at the corner of Hurlbut and Charlevoix.

Q What did this officer do if anything?

A Well, I turned my car towards the right on Hurlbut, in order to give the officer a chance to get off, and I made a left hand turn in order to get back again; and previous to that, I asked the officer if he wanted me to take him back, and he stated that he did. So, by the time I got the car turned around and ready to go there, the officer was back on the car again.

Q Did you see what he did in the meanwhile?

A No, I did not.

Q You were attending to the turning around?

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A Yes?

Q Did you take him back?

A I took him back as far as the corner or the intersection of Garland and Charlevoix.

Q As you were going west on Charlevoix with the officer, did anything happen?

A There was some shooting going on, and I don't know how many shots there was at that time, but the officer stopped - or the officer, rather asked me if I was shot because I had stopped for traffic for an instant, and he thought perhaps I was shot.

Q He thought perhaps you were shot?

A Yes.

Q You knew better?

A I told him I was neither shot nor scared.

MR. DARROW: He was not even half shot.

MR. TOMS: That is proven by the fact that he came back.

Q Well, when you came back, where did you leave the officer?

A At the intersection of Garland and Charlevoix.

Q Where did he go, did you notice?

A I didn't notice.

Q What did you do?

A I turned left on Garland Avenue, going north.

Q How far did you go?

A Approximately 200 feet from the corner.

Q On which side?

A On the right hand side.

Q Then what did you do?

A I parked my car there because I saw a large parking space there, and I wanted to see how soon the Riot Act ; or the riot squad would get there.

Q At that time did anything happen?

A After I left the car, I walked back about 45 or 50 feet, and there was another volley of shots fired.

Q Did you see where they came from?

A They come from the house across the street.

Q From the same place that the first ones came from?

A Yes, sir.

Q Do you know how long it takes you to make that run?

A Where to?

Q I mean from the corner, where you picked the officer up, over to Hurlbut, and back to where you parked your car?

A No, I do not.

Q Have you taken any steps to find out how long it took you from the time the officer got on your car until you heard the second volley of shots?

A I did, but I couldn't.

Q I guess that needs a little explanation,

A There was traffic in my way.

Q You mean later you tried to find out how long it would take you to make that run?

A Yes.

Q You did not have the same traffic conditions, and you could not do that?

A I could not do it, because I could not make the turns,

and I did not have the time to bother with it any more afterwards.

MR. TOMS: Take the witness.

CROSS EXAMINATION

BY MR. DARROW:

Q Now, Mr. Grohn - is that your name?

A Yes, sir.

Q Just plain Grohn.

A Grohn.

Q What is your business, Mr. Grohn?

A I am a sheet metal worker by trade.

Q Working at it, are you?

A Not now.

Q When you are not testifying here - you are not working now - days?

A Not now, not just now.

Q You drove up to Garland Avenue, from the east, is that right?

A I drove up Garland Avenue from the south.

Q Up to Garland Avenue?

A Yes, up to Garland, on the west.

Q On Charlevoix?

A When I was coming to Garland Avenue in the first place, I was coming from the west.

Q Oh, you were coming from the west?

A Yes, sir.

Q And how were you driving, slow or fast?

A Why, I was driving as I usually do, somewhere around 15 to 20 miles an hour.

Q And you heard the shots, did you?

A Not on Kercheval, no, - I didn't get to Garland Avenue yet.

Q But before you got to Garland Avenue, you heard the shots, did you not?

A No, sir, I didn't.

Q Where were you when you heard them?

A I was in front of the school on Garland Avenue.

Q You had crossed Garland Avenue?

A I had already been on Garland Avenue when I heard the shots.

Q You crossed it?

MR. TOMS: Kercheval runs parallel with Charlevoix, about three blocks south.

MR. DARROW: It runs parallel?

MR. TOMS: Kercheval is down here. He came down here and up Garland (indicating on diagram).

MR. DARROW: Oh, yes, now I have got it right.

Q You came over Kercheval, up to Garland?

A Correct.

Q And then turned north?

MR. TOMS: He was going north on Garland.

MR. DARROW: North on Garland. I mean you turned north, the street below that. You were driving up Garland about 15 miles an hour?

A Yes.

Q That is the ordinary kind of "15 miles an hour" that the automobile drivers talk about, I suppose - it means about

50?

A No, I cannot drive my car 50.

Q That was a real 15 miles an hour, was it?

A It was for a fact.

Q And as you got up to Charlevoix, you heard some shooting?

A It was before I got to Charlevoix, that I heard shooting.

Q Well, when you got in the vicinity then?

A Yes.

Q How close ^{were} you to Charlevoix?

A When I heard the first shots, I was approximately 100 feet away, from Charlevoix.

Q 100 feet away?

A Yes.

Q And you stopped?

A I had to stop at Charlevoix.

Q That is not what I asked you, what you had to do. Did you?

A I did.

Q You stopped when you heard the shots, didn't you?

A No.

Q Kept right on?

A I kept right on, until I got to the proper place to stop at Charlevoix.

Q How close were you to the proper place?

A About 6 feet south of the sidewalk, of Charlevoix Avenue.

Q How far would that be from where you heard the shots?

A I heard the shots about 75 or 80 feet farther south?

Q And you knew where they came from?

A I didn't know where they came from, when I first heard

them.

Q You knew they were somewhere close around, didn't you?

A Correct.

Q And you went right straight forward?—

A Well, I didn't — yes, well, I did.

Q You were not afraid of a few shots, were you?

A Not at that time.

Q And then you stopped?

A I came to a stop.

Q How many shots did you hear before you stopped?

A That is not quite clear, whether I heard two or three.

Q Well, is it clear that you heard either two or three?

A Yes, I heard more than one.

Q Did you hear more than two?

A That is not quite clear, whether I heard two or three.

Q Is it clear that you did not hear more than three?

A I don't think I did hear more than three, because I saw and heard the others, the other two that followed.

Q The other two, added to three, would make five, is that right?

MR. TOMS: No, no.

Q Oh, you mean the other two, after the first one?

A Yes.

Q Oh, yes. Your machine was moving then?

A My machine was moving from the time that I heard the first shot until the time that I saw and heard the fourth or fifth shot.

Q Yes. Were those fired rapidly one after the other?

A Well, not as rapid as you can fire a pistol, or whatever it may have been that was fired.

Q Well, then, you stopped?

A Yes.

Q After you heard up to five, or before that?

A Why, I stopped automatically, that is, I had to come to a stop there on account of the traffic law.

Q Yes, but that would not be stopping you automatically. Did you stop after you heard the first five shots, or before it?

A I was stopped at the time that I heard the last one of the four or five shots.

Q Yes. How soon did the policeman jump onto your car?

A Right there, just as I come to a stop.

Q And then you drove him away. He told you to drive which way?

A He told me to drive him west.

Q And you did that?

A I did it.

Q And you drove him two blocks west?

A Yes, sir.

Q Did you speed up?

A All that I possibly could under the conditions.

Q What?

A All that I possibly could under the conditions.

Q What conditions?

A Well, the traffic conditions.

Q There was traffic there, wasn't there?

A The traffic during the shooting got kind of jumbled up a little bit.

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Q Yes, you did not get jumbled up?

A No, sir.

Q So, there was traffic there in the street, and automobile traffic too?

A There was automobile traffic, only.

Q Didn't people run out into the street?

A No.

Q They just stuck right where they were, didn't they, as far you could see?

A No, sir, the traffic was moving.

Q And street cars too?

A Street cars too.

Q Did you follow up the street car?

A No, sir.

Q Did you notice any street car as you drove up there?

A I believe there was a street car on the left side of me.

Q And you had little difficulty driving that two blocks?

A Yes, sir.

Q But you made it allright?

A Yes, sir.

Q Then when you got two blocks away, what did you do?

A I turned right.

Q And let the policeman get off?

A And let the policeman get off.

Q He told you where he wanted to go, didn't he?

A Yes, sir.

Q He wanted to go to the telephone?

A No, he wanted to go to the signal box.

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Q What?

A He wanted to go to the signal box.

Q Well, did he go?

A He went.

Q Do you know how far that was from the automobile?

A About 60 feet or 70 feet away.

Q Well, he went, and then in due course he came back and told you to wait for him, did he?

A I asked him whether he wanted me to wait for him.

Q And he said "Yes".

A He said "Yes."

Q And you did wait?

A I did wait.

Q And he got on the running board again?

A I believe he did.

Q You know he rode back with you, don't you?

A Yes, sir.

Q Where did you turn around?

A When?

Q When you drove west and stopped, where did you turn around?

A On Hurlbut.

Q Did he drive back on Charlevoix?

A Yes, sir.

Q You turned around after the officer got on; you drove back east, didn't you, after you drove west?

A Yes.

Q You had to turn around somewhere, if you did not back your machine?

A Yes, sir.

Q Well, where did you turn around?

A After the officer got off or before?

Q Yes, that is what I mean.

A After he got off, I turned left on Charlevoix, or on Garland.

MR. TOMS: No, no, you are in the wrong place.

He is talking about two blocks down the street, at Hurlbut?

A Oh, I did turn around at Hurlbut.

Q (By Mr. Darrow): You turned right around in the street, didn't you?

A I turned right first, and let the officer off.

Q Then what did you do?

A Then I made the turn.

Q Did you have to back up any, to turn?

A No.

Q Any traffic on the street?

A Not on Hurlbut. I made the turn nicely.

Q Well, did you pick up the officer right where you left him?

A No, I believe I picked him up on the side of the signal box, that was on the west side of Hurlbut.

Q Very close to where you left him, wasn't it?

A Yes, just across the street.

Q He went on the west side of the street, did he?

A Yes, sir.

Q Did you let him off on the west side of the street?

A I let him off on the east side of the street.

Q Then he went across the street?

A Yes.

Q Then you turned around and picked him up on the west side

of the street?

A Yes.

Q Then you started back?

A Yes.

Q What kind of a machine was this that you had?

A A Dodge touring car.

Q Then you started back. Was there any traffic when you were coming back?

A There was.

Q Bother you any?

A No.

Q Then, you got up to Garland and heard some more shooting?

A I got up to Garland and left the officer off.

Q Yes.

A And then I made a left turn on Garland, parked my car about 200 feet from the intersection of the street, of Charlevoix and Garland, and got out of my car and then walked back a short distance, and heard the other shooting.

Q Well, did you hear shooting at two different times, or three different times?

A Two different times.

Q Didn't you say you heard some shooting as you went back past Garland?

A I think that was when I was going in the first place home on Garland; that was first.

Q That was the first you heard?

A That was the first.

Q Now, where were you when you heard the next?

A The second volley?

Q Yes.

A I was on Garland Avenue, about 150 feet away from the corner.

Q North?

A North of Charlevoix.

Q Didn't you say you heard some shooting again as you went by - as you came up Charlevoix to Garland, going east? Am I dreaming about that?

MR. TOMS: No, that is as he went past the Sweet house, going west.

MR. DARROW: Yes, I know.

Q You did not hear it as you came past the Sweet house, going east?

A No, sir.

MR. TOMS: You mean the time the officer asked him if he was shot?

MR. DARROW: Yes.

Q And then you turned at Charlevoix up Garland, when you came back after letting the officer off?

A Yes, sir.

Q And you picked out a parking place?

A Yes, sir.

Q Were there any other cars parked along there?

A There was two cars parked ahead of me, that is, as I made the turn, and then north of the second car I saw a large space that was not occupied by any car, and I drove up in there.

Q And how big a space was that?

A Oh, perhaps 250 feet.

Q And you drove up past those cars?

A Yes, sir.

Q And parked?

A Yes, sir.

Q And got out?

A Yes, sir.

Q And, while you were parking, you heard these shots, did you?

A No,

Q When?

A After I got out, I walked back south a distance of about 30 feet from my car, or perhaps a little bit more.

Q How many did you hear at that time?

A Quite a number of them. I didn't count them. You couldn't count them.

Q How many do you think "quite a number" is, or couldn't you make any estimate?

A I would make an estimate, somewhere around 12 to 15 shots.

Q You say you started to test that out, to see whether you could do it or not?

A Yes, that is, the timing of it, not the shooting.

Q No, you did not try the shooting?

A No, sir.

Q Just the timing, so see our quick you could make this?

A Yes, sir.

Q And that was, I suppose, at the suggestion of some of the attorneys or the police department?

A No, sir.

Q You go that out of your own head, did you?

A Well, I just wanted to see for myself.

Q You wanted to see for sure whether it really happened?

A Whether it really happened or not, in the way that I thought it did.

Q When did you make that test?

A Oh, I don't know. A week or more ago, I don't know.

Q You did not come out very well in it?

A I couldn't make it.

Q You never could drive that way again?

A No, I guess not.

Q How near did you come to it, within a half an hour?

A I couldn't make the turns properly, and I gave it up.

Q You gave it up as a bad job?

A A bad job.

MR. DARROW: That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q When you tried it, you were not as scared as you were the night of the shooting, were you?

A Well, I wasn't scared the night of the shooting, either.

MR. TOMS: All right, that is all.

MR. DARROW: That is all.

MR. HAYES: Ask him if he would have been scared, if he had been colored.

(Witness excused).

W I L L I A M O . B U R N S, was thereupon called as a witness n behalf of the Prosecution, and having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q What is your name?

A William O. Burns.

Q Where do you live, Mr. Burns?

A 9652 Yellowstone.

MR. DARROW: Yellowstone Park?

MR. TOMS: It is just about that far away from here.

A Yellowstone Avenue?

Q You were in the neighborhood of Garland and Charlevoix on the night of September 9th, were you?

A One block away from it, sir.

Q Where, Mr. Burns?

A The corner of Goethe and Garland.

Q Goethe and Garland?

A Yes.

Q How did you happen to be there?

A I went there to see my mother.

Q Your mother lived there?

A Yes, sir.

Q What time did you get there?

A It was about ten minutes to eight.

Q While you were there, did you hear some shooting?

A Yes.

Q Where were you when you heard the shooting?

A At the steps.

Q On the step of your mother's house?

A Yes.

Q Is that on the corner, did you say?

A Yes, sir.

Q A block north of Charlevoix?

A Yes, sir.

Q And when you heard the shooting, what did you do?

A Started to walk down the street.

Q Did you hear any more shooting?

A Yes, after I got down a ways.

Q I don't hear you.

A After I got down a ways.

Q How far down did you get, before you heard some more shooting?

A About three or four houses this side of where the man dropped.

Q Three or four houses this side - you mean north?

A North.

Q North of where the man dropped?

A Yes, sir.

Q What man do you mean?

A Well, Mr. Briener.

Q What?

A Right side of the steps.

Q What man are you talking about, the man that dropped?

A Mr. Briener.

Q You mean Mr. Briener?

A Briener.

Q The man who was shot?

A Yes, sir.

Q Then you had time to come from your mother's house, up at the corner of Goethe, to the second or third house north of where Mr. Briener was shot, before you heard the second volley?

A Yes, sir.

Q What did you do after that?

A I stood there for a few minutes and looked at the man.

Q What?

A I was standing there looking at the man when he was there.

MR. HAYES: I cannot hear the witness.

MR. DARROW: He looked at the man.

A Laying beside the step.

Q Is that the man that was shot?

A Yes, sir.

Q Did you see them carry him away?

A Yes, sir.

Q How many shots did you hear? up on the porch, on your porch?

A I could not say.

Q One or more?

A It might be one or two.

Q How many did you hear later?

A Two or three.

Q That is when you got down on the street?

A Yes sir.

Q How long had you been up on the porch when you heard the first shot?

A I got to my mother's about five minutes to eight.

Q Did you go in the house at all?

A Yes, just in the house, and then I came out again.

Q Immediately?

A Yes, sir. My mother sat on the porch.

Q That was about eight o'clock then?

A Yes, sir.

Q You stood there for quite a while?

A Yes, sir.

Q Before you heard the first shots. How far were you from the man who was shot when you saw him fall?

A He was laying on the ground. My brother said, "There he goes." He points, and I saw him laying on the ground.

Q You did not see him fall then?

A Yes, sir.

Q Did your brother walk down with you?

A Yes, sir.

Q What is his name?

A Russell C. Burns.

Q On your way down Garland Avenue for that two-thirds of a block, how many people did you pass?

A Not many.

Q What do you mean by that? Give us your best estimate.

A Oh, there was only a few walking down.

Q How many. Few is not very definite.

MR. DARROW: If he can tell.

Q Do you know how many?

A There was not over ten or fifteen.

Q And where were they?

A Walking on the street.

Q Walking on the street?

A Yes, sir, on the sidewalk.

Q As you sat on the porch up at your mother's house did you hear any disturbance?

A No, sir.

Q You say walking on the street; you mean along the sidewalk?

A Yes, sir.

Q Certainly. Now, you say that you heard no disturbance?

A No, sir.

Q Traffic was detoured up at Garland and Goethe, wasn't it, up at your corner?

A Not that I noticed.

Q You did not notice it?

A No, sir.

Q Did you see an officer up there?

A Not at that time.

Q Did you meet any as you walked down Garland Avenue, any police officers?

A No, sir.

Q Did you see any at all?

A I did after I was down there at the corner.

Q How many did you see?

A Oh, four or five.

Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q What is your business?

A Electrician.

Q Working for somebody?

A Yes, sir.

Q Who?

A D. S. R.

Q Who?

A D. S. R.

MR. TOMS: That is the Department of Street Railways.

Q You went up to see your mother and got there about ten minutes to eight, is that it?

A Yes, sir.

Q Any way that you know what time it was?

A (There was no answer from the witness.)

Q I say, is there any way by which you can fix the time?

A Why, it was about that time. I generally left home about seven, and it takes about that time to get there.

Q You left home about seven, did you?

A Yes, sir.

Q So you think it must have been ten minutes to eight when you got up there, is that right?

A Yes, sir.

Q You went into the house and came right back?

A Yes, sir, I came in the house and I went on the porch.

Q You sat down on the porch?

A Yes, sir.
Q How long did you sit there before you heard any shots?

A Oh, fifteen minutes maybe.

Q Did you look to see whether there were any people on the street?

A I was not paying any attention to that.

Q You were not paying any attention to the people at any time, were you?

A Not that day.

Q What?

A No, sir.

Q Not at any time you were around there?

A Why, I was after I went down.

Q After you went down where?

A To the shooting.

Q You mean after you got down to where the man was?

A Yes, sir.

Q Were you paying any attention at any time before that?

A No, sir.

Q Were there any people around in front of that house where the man was?

A Oh, there must have been ten or fifteen.

Q There might have been twenty-five, might there not?

A No, I do not think so.

Q Did you take any notice of how many?

A No, sir.

Q Any idea?

A That is just an estimate.

Q What?

A I did not think so.

Q What is that answer?

A I did not think so.

Q you didn't think what?

A There was any more than ten or fifteen.

Q Did you take special notice of how many people were there?

A No, sir.

Q What?

A No, sir.

Q Did you take any notice of how many people were in the next house north, standing around there?

A No, sir.

Q You don't know anything about that?

A No, sir.

Q you saw a policeman around there?

A I seen a few.

Q Whereabouts did you see him?

A Down there, to pick up the man that was dead.

Q Did you see them anywhere else?

A I seen them on the street there.

Q Before you got to the house or after?

A After.

Q You saw no policemen at the crossing?

A I was not at the crossing.

Q At Goethe?

A No, sir.

Q You didn't see any policemen there?

A No, sir.

Q Does your sister live there?

A Yes, sir.

Q Does she belong to the Waterworks Improvement Association?

A That I do not know.

Q Never heard anything about it?

A No, sir.

Q That is all.

(Witness excused.)

- - - - -

RUSSELL WUEBBEN, called as a witness
on behalf of the People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Your name is Russell Wuebben?

A Yes, sir.

Q Are you a police officer of the City of Detroit, and
were you on the 9th of September of this year?

A Yes, sir.

Q Working out of the Fifth Precinct?

A Yes, sir.

Q Were you detailed to the vicinity of Garland and Charlevoix
on that night?

A Yes, sir.

Q What time did you go down to that neighborhood?

A Three o'clock.

Q What time did you leave it?

A At 11:15 or 11:30.

Q That same night?

A Yes, sir.

Q Were you there the day before?

A No, sir.

Q When you got there in the afternoon, what did you do?

A Well, I stood around the corner there for a while.

Q I can't hear you?

A We stood around the corner there for a while.

Q I mean, what did you do?

A I did not do anything.

Q Where were you stationed, what part of that vicinity were you detailed to?

A I was detailed to stand there at the corner, by that store.

Q That is, the northeast corner?

A Yes, sir.

Q This is Garland and this is Charlevoix (indicating on the diagram)?

A Yes, sir.

Q This is the store (indicating). Is that the store that you mean, on the northeast corner?

A Yes, sir.

Q Did you move around or did you stay right there?

A No, sir, I moved around.

Q Where else did you go?

A Where else?

Q Yes?

A Part of the time I was on the south.

MR. DARROW: Can't you speak up a little louder?

A The southwest corner.

Q part of the time over by the school?

A NO, sir, by the apartment house.

Q On Charlevoix or Garland?

A Charlevoix.

Q Of course you were not out on the street all of that time, were you?

A NO, sir.

Q you had some relief?

A No, I never had no relief.

Q You went into the tire store once in a while?

A yes, sir.

Q You must have had some time to eat?

A Yes, sir.

MR. DARROW: Is this the 8th?

Q No, this is the 9th. He was not there on the 8th. Did you hear some shooting later?

A Yes, sir.

Q Do you know about what time that was? I will tell you, it was 8:25?

A yes, sir.

Q Between the time you got there and shortly before the shooting, what did you notice in the neighborhood? What was the condition?

A The condition was good.

Q That is not what I mean.

MR. DARROW: It is stricken out then?

Q What did you see - -

MR. DARROW: That may be stricken out?

Q Yes, certainly.

A I seen cars going up and down the avenue.

Q Did you observe any disorder?

A No, there was nothing there to observe.

MR. DARROW: I did not hear him.

A There was nothing there to observe.

Q Then you did not observe any disorder?

A No, sir.

Q Any disturbance?

A No, sir.

Q What about people gathering and congregating?

A There was no people gathered.

Q What were your orders with respect to that?

A To protect, guard and protect.

Q I mean, what were your orders if any with respect to people congregating?

A Well, to keep them moving.

Q Where were you standing when you heard the shooting?

A I was on the northwest corner.

Q The northwest corner would be the corner that the Sweet house is on?

A Yes, sir.

Q Is that where you were?

A Yes, sir.

Q Which side of it?

A On the east side.

Q The Garland Avenue side. The west side is the rear?

A The west side of Garland.

Q That is in front of the house?

A Yes, sir.

Q How far from the corner were you?

A That I don't know. I was about, I was in between the Sweet house and the next.

Q Then you do know, don't you?

A Well, yes, I do.

Q This is the Sweet house on the corner, and this is the house next door?

A yes, sir.

Q You were in between the two of them?

A Yes, sir.

Q Where?

A On the sidewalk.

Q Is that right?

A Yes, sir.

Q While you were standing there what did you see or hear?

A I heard a volley of shots fired.

Q Did you see any flashes of flame?

A We did.

Q Where did they come from?

A The upstairs.

Q On which side of the house?

A The north side of the house.

Q That would be in between the houses?

A Yes, sir.

Q How many?

A Well, about thirty-five or forty, about.

Q All in one volley, or were they separated?

A It was in one volley.

Q What did you do?

A I did not do anything. I stayed there.

Q You stood right there?

A Yes, sir.

Q What happened next?

A Well, the wagon came out, the flyer came out.

Q Did you see the man shot across the street?

A I did not.

Q Did you go across the street at all?

A Well, I did after everything was over with.

Q That is, after the prisoners had been taken away?

A I did not see the prisoners being taken away.

Q What did you do on the sidewalk with reference to passers-by, after the shooting?

A There wasn't any congregated around there.

Q What?

A There was not anybody congregated around there.

Q Was that because you kept them back? That is slightly leading.

MR. DARROW: Go ahead with it.

MR. TOMS: Take the witness.

CROSS EXAMINATION

BY MR. DARROW:

Q How long have you been on the police force?

A Five years in December.

Q Patrolman all the time?

A Yes, sir.

Q What did you do before that?

A Oh, I worked in the factory.

Q What kind of work?

A Oh, I worked at machine work, and steam fitter.

Q Who for?

A Hudson's.

Q How long?

A Oh, I don't have the least idea; about a year.

Q What did you do before that?

A I was working up north.

Q Where?

A Hancock, Michigan.

Q What at?

A At the Quincy Stamp Mills.

Q When did you move down here?

A Right after the war.

Q Were you born up there north in Michigan?

A Yes, sir.

Q In the Northern Peninsula?

A Yes, sir.

Q In the five years that you have been on the police force you have been a patrolman all the while?

A Yes, sir.

Q You were assigned to this neighborhood on the 9th day of

September?

A Yes, sir.

Q What time did you get there?

A About three o'clock.

Q You stayed how long?

A 11:30.

Q Where did you go first?

A I was detailed on the corner there, at that store.

Q At the store corner?

A Yes, sir.

Q How long did you stay there?

A I do not know just what time it was; about six o'clock.

Q Then where did you go?

A I went over in front of that apartment house.

Q You went over to it, or from it?

A No, I went to it.

Q Where did you stay there, whereabouts?

A Right on the corner.

Q How long were you there?

A About a half an hour.

Q How many policemen did you have over on the corner, or were there there?

A Oh, there must have been about eight.

Q On the corner by the apartment house?

A All along, all along on the corners there.

Q How many did you have at the apartment house?

A There was only one.

Q You did that all alone, did you?

A Yes, sir.

Q Did you see any people around the apartment house?

A Yes, there was a few sitting on the grass, three or four.

Q Where on the grass?

A Sir?

Q Where was the grass, on which street?

A That was on Garland.

Q Right in front of the apartment house?

A Yes, sir.

Q How many were sitting there?

A About three or four.

Q What?

A About three or four.

Q How long were they sitting there?

A Well, that I could not say.

Q Any idea?

A I could not say. I have not.

Q Anybody else around there?

A No, sir.

Q Any people walking around?

A They were coming and going from work.

Q Did you know them?

A No, sir.

Q Then how do you know they were coming from work?

A I imagine they were.

Q I am not talking about imagining. Did you see anybody?

A I could not say.

Q Did you see anybody else around the apartment house?

A No, sir.

Q Did you look?

A Yes, sir.

Q Nobody else was there but those people sitting on the grass?

MR. TOMS: What are you talking about?

Q You were there until six o'clock, weren't you, around the apartment house?

A Yes.

MR. TOMS: Are you talking about that time, at six o'clock?

A No, I was not at the corner -- well, it was six o'clock when I went there.

Q How long did you stay there?

A It was about a half an hour.

Q That is the time I am talking about.

MR. TOMS: During that half hour.

Q Yes. Did you see anybody else there except the people who were sitting on the grass?

A No, sir.

Q Did you look across to the schoolhouse corner, or didn't you?

A I did not pay much attention.

Q You don't know whether there was anybody on the schoolhouse corner, do you?

A No, sir.

Q Did you look across to any other corner while you were there?

A Yes, sir.

Q Which corner?

- A The northwest corner.
- Q That is the Sweet house, isn't it?
- A Yes, sir.
- Q They didn't allow anybody out there, did they?
- A There was nobody there.
- Q Did the policemen permit anybody to go there?
- A No, sir.
- Q What?
- A No, sir.
- Q There were policemen in front of it all the time, weren't there?
- A Yes, sir.
- Q You were directed that nobody should be there, weren't you?
- A Yes, sir.
- Q And you did not permit anybody to go there, did you?
- A No, sir.
- Q Did you see anybody on the other side of the street?
- A No, sir.
- Q Were there any people on the other side of the street during that time; I mean where the store was, and down beyond it, which is north, anybody up in that region?
- A About eight or ten people.
- Q Whereabouts?
- A Sitting on their porches.
- Q What porches?
- A On the east side.

Q Were they anywhere else except sitting on their porches?

A No.

Q For all of that evening at any time?

A No, sir.

Q You looked, did you?

A Yes, sir.

Q Do you know that they were not there, is that right?

A They were not where?

Q There was nobody there except the people who were sitting on the porches?

MR. TOMS: He said "where"?

Q You know where I am talking about, don't you, up north where you saw them sitting on their porches, on the east side of the street?

A Yes, sir.

Q There was nobody there excepting the ones sitting on their porches?

A Well, a few - -

Q What?

A There was a few fellows there, that is three or four coming and going now and then.

Q Was there anybody standing outside?

A No, sir.

Q On the lawn between the sidewalk and the houses, or between the sidewalk and the store, in that vicinity?

A There was, on the porches.

Q You have told me about the porches. Were there any people standing out on the lawn in front of the houses between

there and the sidewalk, or between the sidewalk and the street, anybody there?

A No, sir.

Q All the people up there were sitting on their porches?

A Yes, sir.

Q Did you go up and see who was sitting on the porches?

A No, sir, I did not.

Q You did not talk with anybody there, did you?

A No, sir.

Q Or ask anybody why they were there?

A No, sir.

Q Where were you when the shots were fired?

A I was between Dr. Sweet's house and the next house.

Q How long had you been standing there?

A I don't know, about an hour.

Q Standing between Sweet's house and the next house?

A Yes, sir.

Q What were you doing?

A I was standing there.

Q What?

A Just standing there.

Q Look in any particular direction?

A Well, I looked all around.

Q Did you see anybody?

A No, sir.

Q Did you say how long you were standing there? You didn't see anybody while you were standing there?

A I seen people sitting on their porches.

A Not that I remember.

Q It could not happen without your seeing it, could it?

A No, sir.

Q You were in that position for a whole hour?

A Yes, sir.

Q Did you hear any stones against the Sweet house?

A No, sir.

Q Or any glass broken?

A No, sir.

Q Nothing of that?

A No, sir.

Q You did not hear any pebbles either, or see any, did you?

A No, sir.

Q Did you see some men and some women come down to where you stood before this shooting?

A No, sir.

Q Nothing like that happened?

A No, sir.

Q Neither men or women?

A No, sir.

Q And the first thing that woke you up was the shooting, wasn't it?

A Yes, sir.

Q That is all.

MR. TOMS: It is conceded then that he was asleep before the shooting?

MR. DARROW: Yes.

MR. TOMS: Let that appear on the record. You are

excused, witness.

(Witness excused.)

B E N T O N H A C K E R, called as a witness
on behalf of the People, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q Were you a police officer on the 9th of September?

A Yes, sir.

Q Were you detailed, to the corner of Garland and Charlevoix?

A Yes, sir.

Q What time did you go down there?

A I left the McClellan Police Station at 3 P. M.

Q What time were you relieved from duty?

A I was relieved at 11:45.

Q During all that time were you in the neighborhood of Garland
and Charlevoix?

A Yes, sir.

Q Where were you in that neighborhood? What particular
spot of that neighborhood?

A I was detailed on the east side of Garland, opposite Dr.
Sweet's home.

Q The east side?

A Yes, sir.

Q What part of your time did you spend there?

A From seven o'clock until about nine.

Q That is, from seven o'clock - -

A P. M.

Q Until about nine?

A Yes, sir.

Q Were you there when some shots were fired?

A Yes, sir.

Q Where were you standing at that time?

A About a hundred feet north of Charlevoix on the east side of Garland.

Q Were you past the rear end of the store?

A I was just about even with it.

Q Were you on the sidewalk?

A Yes, sir.

Q Up there - -

MR. DARROW: Wasn't he on the other side of the street?

Q No, he says he was on the east side?

A Yes, sir.

Q That is right, is it, on the east side of Garland?

A Yes, sir.

Q Just about at the rear end of the store?

A Just about at the rear end of the grocery store.

Q Now, what did you hear and see while you were there?

A Well, everything was peaceful and quiet up until 8:25.

Q Then what happened?

A Then the firing started.

- Q Where did it come from?
- A The upper story of the Sweet home.
- Q Did you see from which side of the house?
- A The north end.
- Q Did you see from which side?
- A The north side.
- Q Did you see any from the front?
- A No, sir.
- Q You were where you could see in between the Sweet house and the Getke house. How many shots did you hear?
- A Around twenty to thirty.
- Q In one volley, or separated?
- A Well, it was awful close together.
- Q Prior to that time had there been any disturbance on the street?
- A No, sir.
- Q Did you hear or see anything thrown?
- A I did not, no, sir.
- Q No loud noise?
- A No, sir.
- Q What about people congregating?
- A There were not any.
- Q What were your orders in that respect?
- A To keep everybody moving.
- Q Did you do that?
- A Yes, sir.
- Q Cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q You spent from seven to nine in that locality keeping people moving, did you?

A How is that?

Q You were there from seven to nine in that locality keeping people moving?

A Yes, sir.

Q And you did not permit any crowds of any size to get together?

A No, sir.

Q Do you know where the Dove house is?

A Yes, sir.

Q Any number of people congregated there previous to the shooting?

A Oh, around ten or fifteen people I should judge.

Q You did not ~~give~~ regard that as a crowd?

A No, sir.

Q That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q Where were they?

A They were on the lawn.

Q On the lawn in front of the houses?

A On the lawn in front of the houses, part of them, and part of them was up on the front porch.

Q That is, they were not on the sidewalk?

A No, sir.

3:57
B3

Q Did you at any time while you were there see any larger group than that anywhere?

A No, sir.

Q Either on the street or the sidewalk or on private property?

A No, sir.

Q That is the biggest group you saw at any time?

A Yes, sir.

MR. TOMS: That is all.

RE-CROSS EXAMINATION

BY MR. DARROW:

Q Did you say anything to any of the people there, ask the people what they were doing?

A No, sir.

Q Did you know any of them?

A No, sir.

Q You do not live in that vicinity?

A No, sir.

Q You don't know where they came from?

A No, sir.

Q There were some fifteen there, were there?

A Ten or fifteen.

Q Did you disperse any other collection of people that got together?

A There were not any.

Q Didn't you make the people move?

A I did not have to. They kept moving.

Q Did you tell anybody to move?

A Well, when they stopped and looked around I may have told them to move on.

Q Did you or didn't you?

A Yes, sir.

Q Do you know how many?

A No, sir.

Q Was there anybody in front of the house next door to the Dove apartment?

A Not that I knew of.

Q You stood right there, didn't you?

A Well, I was on the sidewalk.

Q You could have seen next door?

A Yes, sir.

Q Were there any people there?

A Not that I noticed.

Q They might have been there without your noticing them, they could^{not}/have been there, couldn't they?

A It does not look like it.

Q No, it does not look like it. Were there any people further up north?

A Not on the sidewalk.

Q Well, were they on the lawn on either side of the sidewalk, in front or in back of it?

A Not that I noticed.

Q Will you say there were not any?

A Yes, sir.

Q You would have seen ~~them~~ them if there would have been any?

A Yes, sir.

Q Were there any people on the lawn along the store?

A No, sir.

Q Are you sure about that?

A Yes, sir.

Q Were there any on the corner at the store?

A No.

Q Were there any on the schoolhouse corner?

A No, sir.

Q You looked there?

A Yes, sir.

Q There were not any there?

A No, not on the corner.

Q Well, were they around there?

A No, sir.

Q On any of the grounds, the schoolhouse grounds?

A Oh, there might have been a few.

Q How many?

A About five or six or somewhere along there.

Q Were there five or six?

A I judge there were.

Q At what time?

A It was around 8:20.

Q But not more than five or six?

A No, sir.

Q Those were little boys, weren't they, and little girls?

A No, they were grown-ups.

Q Were there any over on the corner in front of the apartment building across from the Sweets, on Charlevoix, or across

from the schoolhouse, on Garland?

A I never noticed any there.

Q You did not look that way?

A No, sir.

Q Where do you come from?

A Indiana.

Q How long have you been here?

A Eight years.

Q Whereabouts in Indiana?

A Bloomington.

Q What was your business before you came here?

A I was a farmer.

Q That is all.

MR. TOMS: That is all.

THE COURT: How long have you been on the force?

A Fourteen months the 18th day of this month.

- - - -

W I L L I A M N. J O H N S O N, called
as a witness on behalf of the People, being first
duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. TOMS:

Q You are lieutenant of detectives?

A Yes, sir.

Q One of the officers in charge of this case, Mr. Johnson?

A Yes, sir.

Q Endorsed on the information in this case is the name of Harry Lawson. Have you tried to find him?

A Yes, sir.

Q Have you made a diligent search to locate him?

A Yes, sir.

Q Have you been able to do so?

A No, I have not.

Q Also endorsed on the information is the name of Mr. G. Sharp. Do you know where he is now?

A I have information that he is in Grand Rapids.

Q Have you made an attempt to subpoena him?

A I have.

Q Have you been able to do so?

A No, sir.

Q Also the name of Ralph Flek. Have you made an effort to locate him?

A Yes, sir.

Q What have you been able to find out?

A Why, he is in Indianapolis, Indiana.

Q He lives there?

A Yes, sir.

Q Have you been unable to serve him with a subpoena?

A I have been unable to serve him.

Q Endorsed also is the name of M. S. Andrews, whom I understand is Mrs. Andrews?

A Yes, sir.

Q Why is she not present in court, if you know?

A She is ill.

Q Is she the wife of H. H. Andrews who did testify?

A Yes, sir.

Q She is ill and unable to attend?

A Yes, sir.

Q How soon after the shooting occurred did you visit the scene of the crime?

A At 11:30 A. M.

MR. DARROW: I object to the question.

Q All right. I will withdraw it. I will consent that it be stricken out. How soon did you visit Charlevoix and Garland?

A At 11:30 the next morning.

Q Did you enter the house?

A I did.

Q Did you make a thorough inspection of the house and the premises?

A I did.

Q And the neighborhood?

A Yes, sir.

(A bullet was marked People's Exhibit 43.)

Q I show you a lead bullet with white substance on one side of it, and ask you whether you ever saw it before?

A Yes, sir.

Q Where did you get it?

A I found it at the foot of the stairs on the first floor.

Q The foot of the stairs on the first floor?

A Yes, sir.

Q Did you find any bullet hole near it?

A No, sir.

Q Or above it?

A Above it?

Q What did you find directly above it?

A Well, there was a mark on the ceiling, and a bullet hole through the wall.

Q Is it a plaster wall?

A It is.

Q This is in the Sweet house?

A Yes, sir.

Q Directing your attention to Exhibit 2, which is a floor plan of the Sweet house, will you come down to this diagram, Lieutenant, and see whether you can point out the place where you found the bullet?

A Yes, sir.

Q This is Garland, the front of the house?

A Yes, sir. It is right here (indicating).

MR. MOLL: I think you have got the wrong floor there.

A It was found on the first floor.

Q This is the first floor. The upper sheet is the first floor?

A Yes.

Q It was right in there (indicating)?

A Yes, sir.

Q Well, that is in the doorway, practically, leading from the kitchen into a hallway from which the stairs go up to the second floor?

MR. DARROW: That is the back stairs, isn't it?

Q It is the only stairs. Where did you find the bullet hole above it? This is the back porch of the downstairs here (indicating). This is the uncovered rear porch upstairs?

A Right over this doorway, right about here.

Q There (indicating)?

A Yes, sir.

Q There was a hole in the plaster there?

A A hole all the way through the siding and plaster from the outside in; and then there is a mark on the ceiling, just above this. I picked the bullet up down below.

Q You picked the bullet up at a point right even with this (indicating)?

A Yes, sir.

Q Well, now, Mr. Johnson - -

MR. NELSON: Is that where he said the bullet hole was in the ceiling? Where is the bullet hole in the ceiling?

A There is no hole in the ceiling.

MR. NELSON: There is a dent in the ceiling?

A Yes, right by the door.

Q Of the ceiling of the hallway?

A Yes, sir.

Q This bullet is marked Exhibit 43 and I offer it in evidence?

MR. DARROW: All right.

THE COURT: It will be received.

Q I show you Exhibit 11, which is a photograph showing the rear of the Sweet house. Will you indicate on that where you found the bullet hole, about which you have just testi-

fied ?

A There (indicating).

MR. KENNEDY: Here is a better one, Mr. Toms.

Q Yes. Here is Exhibit 6, which is a little closer. Will you mark it on that?

A It is already marked. It was right there (indicating).

Q It is already marked by another witness?

A Yes, sir.

THE COURT: Any further questions?

MR. TOMS: Yes, your Honor.

(A shell was marked People's Exhibit 44.)

Q An empty lead special brass shell is shown you. Did you ever see that before? That is Exhibit 44.

A yes, sir, I have.

Q Where did you see it? Where did you find it?

Howse

A I found it in the bed room on the Charlevoix side, upstairs, in the Sweet home.

MR. TOMS: I offer it in evidence. Is there any objection, Mr. Darrow?

MR. DARROW: No.

THE COURT: It may be received.

Q I will show you one 38 special, and one steel jacket 32. Where did you find those if you did find them?

A Those were found by Mr. Kennedy in the Sweet home.

Q In your presence?

A Yes.

MR. TOMS: They are marked Exhibit 45. Offered in evidence.

THE COURT: They may be received, if there is no objection.

Q Is the bullet in the envelope marked by you?

A Yes.

Q Where did you find it?

A It was taken from a tree in front of the house on the Charlevoix Avenue side, 2913 Garland Avenue.

Q That is the tree in front of the Dove house?

A Yes, sir.

MR. TOMS: Mark these envelopes, Exhibit No. 46.

(Exhibit 46, an envelope was marked).

MR. TOMS: They may be received?

THE COURT: Yes, if there is no objection.

MR. TOMS: Exhibit 46 is the bullet found in the tree in front of the Dove house.

MR. HAYES: The same size as these others, is it?

MR. TOMS: Yes.

MR. NELSON: What calibre?

MR. TOMS: 38. Mark these 47, 48, 49 and 50.

(Exhibits 47, 48, 49 and 50 were marked by the Reporter.)

Q This bullet which you have there is marked Exhibit 47?

A Yes.

Q Where did you find that?

A It was found by Mr. Dove, in the eaves at 2912 Garland Avenue and given to me.

Q Of his house?

A Yes.

MR. NELSON: What is the calibre?

MR. TOMS: A 38 special.

THE COURT: It may be received.

Q What does Exhibit 49 contain?

A Empty -

MR. TOMS: Wait a minute, this second one is a 48.

A 38 special bullet, bullet taken from the steps leading to the second floor of the flat at 2912 Garland Avenue.

Q This is the bullet that went through the glass door and struck the steps leading up to the second floor?

A Yes, sir.

MR. TOMS: I offer it in evidence.

MR. NELSON: What do you claim is the calibre?

MR. TOMS: 38 special. Is there any objection?

MR. NELSON: No.

THE COURT: It may be received.

Q Exhibit 49 is what?

A 38 special shell, picked up in the upper room, facing Charlevoix Avenue.

Q In the Sweet house?

A In the Sweet house.

MR. TOMS: Empty 38 shell.

MR. NELSON: Where was it found?

MR. TOMS: On the second floor, facing Charlevoix.

It may be admitted in evidence?

THE COURT: Yes.

MR. HAYES: In the Sweet house?

MR. TOMS: Yes.

Q I will show you Exhibit 50. What is in that envelope?

A 38 special shell, picked up in the front room, upstairs, 2905 Garland Avenue.

MR. TOMS: Any objection?

THE COURT: It may be received.

Q I will show you an envelope marked Exhibit 51, and containing 31 38-40 cartridges; ten 38 specials; 3 38 shorts, and five other cartridges; with a safety pin included, a safety pin and a pair of dice, did you ever see them before?

A Yes, sir.

Q Where did you get them?

A They were gotten out of the cuspidor in the room in which the defendants were first taken after being taken to headquarters, police headquarters.

Q Who was there in the room when you found them?

MR. NELSON: We have never seen these before.

Let us take just a minute to examine them.

THE COURT: Mr. Toms, you may proceed with what else you have, while they are examining them so as to save time.

MR. TOMS: I do not see why they have to be counted.

THE COURT: They have the right to examine them.

MR. TOMS: Yes, that is true, I suppose.

Q What is Exhibit 52, Lieutenant?

MR. HAYES: Any danger of these exploding here if we drop them in there?

MR. TOMS: Probably.

A Two flat keys, attached by a rubber.

Q Where did you get those?

A In the cuspidor at police headquarters, where the others were.

Q In the same cuspidor where you found the contents of Exhibit 51? The cartridges in Exhibit 51?

A Yes, sir.

Q Who was in the room when you found these cartridges and keys?

A Dr. Sweet, Mr. Kennedy and myself.

Q Dr. Sweet, Mr. Kennedy and yourself?

A Yes.

Q How did you happen to find them?

A We were going to have a talk with Dr. Sweet, and there was some tables up close to the wall, two small tables, and I pushed the table out from the wall so that the doctor could sit on one side and there would be more room. In

doing so the cuspidor was in the way and I picked that up and it seemed to be kind of heavy, and I mentioned it that it was heavy, and looked into it and Mr. Kennedy looked at the same time and we saw the ammunition; and Mr. Kennedy took it out and emptied it out and brought the cartridges and keys back in.

Q Were there cartridges and keys shown to Dr. Sweet?

A They were.

Q Did he make any statement at that time as to who was the owner of the keys which you found?

A He did.

Q What did he say?

A He said they were his keys.

MR. TOMS: Exhibits 51 and 52 are offered in evidence.

MR. DARROW: Everything in them?

MR. TOMS: Exhibit 51 is the cartridges and 52 is the keys.

Q I will ask this further question -

MR. DARROW: Go ahead and introduce them.

MR. TOMS: Any objection?

MR. DARROW: No objection.

Q Where was Dr. Sweet sitting with reference to this cuspidor?

A Right beside it.

THE COURT: They may be received.

Q Lieutenant, have you inventoried the contents of this brown leather bag containing ammunition?

A Yes, sir.

MR. TOMS: It was understood that it was to be inventoried.

(Exhibit 53 was marked by the reporter)

MR. TOMS: Of course, the ammunition itself is in evidence.

Q Is Exhibit 53 an itemized list of what is in that bag?

A It is.

Q Made by yourself?

A Yes, sir.

MR. TOMS: It is not really competent evidence, except as a memorandum, but it may be admitted.

MR. HAYES: I would not think this ought to be admitted in evidence. The contents are in evidence.

MR. TOMS: It is merely marked with other exhibits.

MR. HAYES: Read it into the record.

THE COURT: For the purpose of the record, that exhibit is in such a confused state that there ought to be something definitely agreed upon.

MR. HAYES: We are objecting to this paper going in evidence, because the exhibits, I presume go to the jury, if they ask for them; and I do not want them to stress this particular fact any more than is necessary.

THE COURT: What do you agree upon, about it?

MR. HAYES: We agree that what is in the bag - read that into the record.

MR. TOMS: It is so much quicker, if this could be kept as a memorandum of what the witness has testified to.

Any objection to that?

MR. HAYES: Why, certainly if we agree that it is an exhibit in the case, to go to the jury room.

MR. TOMS: That is all right, we will agree it does not go, in case it is admitted.

MR. TDARROW: Did you mark it?

MR. TOMS: Yes.

THE COURT: On that condition, it will be received.

Q The defendant whom you have just testified about, Dr. Sweet, - you mean Dr. Ossian H. Sweet?

A Yes, sir.

Q There is another defendant who is also a dentist?

A Yes, sir.

Q But you mean the physician?

A Yes, sir.

Q Were you present at the Sweet house when Sergeant Williams picked up the stones that were found in that vicinity?

A Yes, sir.

Q Did you see him making the search?

A I did.

Q And went with him?

A I did.

Q Who else was there?

A Mr. Kennedy and there were two other officers there, I don't recall their names.

Q Do you know of your own knowledge whether he picked up all of the stones that were there?

A He did.

Q Do you know whether allof the stones which were picked up, have been introduced in evidence here?

A Yes, sir, they have.

Q When you first went in the house, it has been testified that that house was under guard, and no one allowed to go in there?

A Yes.

Q What condition didyou find it in, what did you see?

MR. DARROW: Is there anything new there?

MR. TOMS: Yes, something.

Q I mean generally, Lieutenant, not each room or anything of that kind.

A I found a small amount of furniture on the upper floor, and downstairs.

Q What about the position of chairs?

A Chairs before some of the windows. Along side of some of the chairs was cigar butts and cigarette butts.

Q Did you examine the screen in the front windows, upstairs?

A There was only one screen in the front window, and we examined that.

Q What did you observe about that?

A There was a hole about an inch square, an inch and a half square.

Q Through that?

A Through the screen.

Q Didyou find any other such hole elsewherein the haouse?

A I did on oneof the side windows, on the Charlevoixside.

Q In one of the side windows on the Charlevoix side?

A Yes, sir.

Q Did you find any bullet marks on the roof, on the Charlevoix side?

A Yes, sir.

Q Where?

A Just over the roof that was projecting out over what is sometimes called the bay window.

Q That is, the bay window in the dining room downstairs?

A Yes, sir.

Q This is the dining room downstairs, and these are the bay windows (indicating)?

A Yes, sir.

Q Now, there is a roof that extends out over that (indicating)?

A Yes, there is.

Q That is this room here (indicating on diagram)?

A Yes, sir.

Q Now, where was that bullet hole?

A There was a hole in this screen, right here (indicating).

Q A hole in the screen?

A Yes.

Q Where did you find the bullet mark?

A Just a little projection out here (indicating).

Q Just outside of that window?

A Yes, sir.

Q Here is Exhibit 6. Point out the place?

A You will have to get the other view. It would be opposite this window right here (indicating).

MR. NELSON: Have you anything further on that mark that the Lieutenant has just testified to, Mr. Toms?

MR. TOMS: Let me get rid of what I have already got.

MR. NELSON: That is what I am talking about, is what you have already got.

MR. TOMS: The point indicated by the witness is there. This is the Charlevoix side of the house (indicating).

Q That is the window that the screen was broken in, is that right?

A Yes, sir.

Q Right above that (indicating)?

A Yes.

Q The window on the south side of the house, the second floor, on the Charlevoix side - there is a broken window there now, isn't there?

A Yes, there is.

Q Was that broken the morning you were there?

A No, sir.

3 Q That is in this room, isn't it (indicating)?

A In the room back of that.

Q Here?

A No, farther back.

Q Off this closet?

A Yes, sir.

Q Four by seven feet. This window is now broken (indicating).

A Yes.

Q And it was not at the time you were there?

A No, sir.

Q How long have you been a police officer?

A Nearly 15 years.

Q You have had experience with fire arms?

A Some.

Q How long have you been on the homicide squad?

A About two and one half years.

Q You have had occasion to examine weapons which have been fired?

A I have.

Q Do you know how to tell whether a weapon has been fired or not?

A Yes, sir.

Q Have you examined the exhibits in this case?

MR. DAWSON: You can tell by standing in front of it.

MR. TOMS: Yes, and then you do not need to examine it; the coroner will do it for you.

Q Have you examined the ten weapons in this case?

A Yes, I have.

Q Were you asked to determine how many, if any, had been fired, when you got them?

A Yes, sir.

Q How many?

A There are three or four of them that I would say had been fired.

Q That is just an estimate from where you sit here?

A Yes, sir.

Q Well, let us find out exactly as near as you can. Come down and examine them.

(The witness left the witness chair and examined the exhibits in question.)

Q This is Exhibit No. 33, a double barreled shotgun. Had that been fired?

MR. NELSON: What is your question - "has it been fired?"

MR. TOMS: "Had it been fired," at the time he got it.

MR. DARROW: He does not say when he got it, whether he got it immediately afterward.

MR. TOMS: Other witnesses testified that these weapons were immediately turned over to this witness.

A Yes.

Q One barrel or both?

A The right hand barrel.

MR. NELSON: What exhibit is that, what number?

MR. TOMS: Exhibit 33.

Q Now, look at Exhibit 35, a rifle?

A Yes, that has been fired.

Q These weapons are all in the same condition as when you received them, are they?

A Yes, they are.

Q This exhibit 34, also a rifle (handing Exhibit 34 to witness)

A This has been fired, but I would not say how late. It is very dirty now.

MR. DARROW: You would not say when it had been fired?

A Not that one.

MR. TOMS: Exhibit 41 -

THE COURT: Isn't it possible for you to arrive at some agreement on this, so that there may be some time saved so that so much time will not be taken up?

MR. DARROW: I think so.

MR. TOMS: I have no way of anticipating what the defense will agree to. They are most agreeable.

A Yes, I would say that had been fired, lately.

Q Do you know how lately?

A No. It has not been cleaned since it was fired the last time.

MR. NELSON: What is that exhibit number?

MR. TOMS: 41. What shall I do, proceed in this manner, your Honor? I am doing it as quickly as I can.

THE COURT: Do you want to ask about the rest of these exhibits, of this witness?

MR. TOMS: Yes.

THE COURT: Can't you agree upon the fact that they have been fired, or not?

MR. DARROW: I believe we could.

MR. NELSON: If he will give us the numbers, we will examine them and agree.

MR. TOMS: Examine Exhibit 25.

A I was looking at this a short time ago, before I came on the stand. This one, I would say, has been fired lately.

Q It has been fired?

A It has been fired.

MR. DARROW: Did you say when?

A Before it got into our possession, just shortly before it came into our possession.

Q Exhibit 26?

MR. NELSON: You did not say what Exhibit 41 was.

MR. TOMS: Yes, we said it, but you did not hear it.

MR. NELSON: It is a revolver and it has been fired?

MR. TOMS: Yes. Exhibit 26, a rifle?

A Yes, that has been fired.

MR. DARROW: Can't you speak more definitely. You mean it has been fired at some time?

A Yes, it has been fired, some time.

MR. DARROW: That is all you mean by that, isn't it?

A Well, You cannot tell exactly the date it was fired, or give the number of days ago that it was fired.

MR. DARROW: Or the weeks or months ago?

A No, you cannot do that.

THE COURT: There is no one who could tell, is there Mr. Toms?

MR. TOMS: Not that I know of.

MR. DARROW: All that you can tell on any of these firearms is that at some time they have been fired, or that they have not been fired?

A They have been fired, and no care taken of them since the firing.

MR. NELSON: Which ones? Just the ones that you have given us now?

MR. TOMS: "Which ones" what? What do you want?

MR. NELSON: You have given us Exhibit 33, 35, 44,

31, 25 and 26. How many more have you got?

MR. TOMS: You will find out if you will wait just a minute.

MR. HAYES: Have you any there that have never been fired?

MR. TOMS: Exhibit 31 is next.

A No, this has been taken care of. That is just dust and dirt there (indicating).

Q There are no powder marks on this, to show whether it has been fired or not?

A No.

MR. TOMS: That is Exhibit 31.

MR. DARROW: Is that what the witness said?

A I say, there is no powder marks on that. It is just a kind of fuzz that collects, dust.

MR. DARROW: That would indicate that it had not been fired at least since the day it was cleaned?

A Yes.

MR. DARROW: Cleaned, since fired.

MR. TOMS: Exhibit 5.

A That is all right.

Q That is clean, you mean?

A It has been cleaned since it was fired.

Q If it was ever fired, it was cleaned afterwards?

MR. HAYES: I understand that there is no contention that any of these arms that are cleaned, were fired that night? At least the negative proves something. There is no contention that they were cleaned after being fired, and before the police came, is there?

MR. TOMS: There is no contention about anything. We are

offering the proof, that is all.

MR. HAYES: The affirmative proves nothing. The negative might. I do not see how all of this testimony is admissible.

MR. TOMS: That is a fine argument for you to make.

THE COURT: I do not see how it is admissible.

MR. HAYES: None of it is admissible.

THE COURT: I do not see how it could be admissible.

MR. TOMS: It has not been objected to.

MR. NELSON: I move that all of this be stricken, all of the testimony with reference to what the condition of these firearms is.

THE COURT: Is there any objection to this, Mr. Darrow?

MR. DARROW: Yes.

MR. NELSON: And that the jury be instructed to disregard it.

MR. TOMS: We object to its being stricken, of course. Whatever probative value it has, it may be slight, but it has some competency, to show that these weapons bear marks of having been fired. There may be the argument that they were not fired that night; but at least it shows that they have been used.

THE COURT: I think it is too indefinite and too speculative, and I will sustain the objection to all of this testimony, as to the condition of the firearms, and strike it from the record. I will instruct the jury to gather no inference from it unfavorable to the accused.

MR. MOLL: If the court please, isn't the objection

aimed at the competency of this testimony, and not at its weight? I think the only questions their objection raises is the as to the weight of the testimony, which is a question of fact for the jury.

THE COURT: As I understand it, you offer it simply on this proposition, that it shows that the guns have been fired, that is all?

MR. MOLL: Yes,

MR. TOMS: And we are offering that for what it is worth, and that is a question of fact for the jury. It goes to the weight of the testimony.

MR. MOLL: And not its competency or admissibility.

THE COURT: When an objection is raised to testimony of this kind, in a case of this character, I think it is my duty to exclude it. I believe myself, it is incompetent.

MR. MOLL: I understand the objection only went to its competency, not to the weight or admissibility of it.

MR. HAYES: The objection went to the full extent. It does not prove anything.

MR. TOMS: Well, it is a question of fact for the jury.

MR. MOLL: It is a question of fact for the jury, as to what it will prove.

MR. HAYES: If it does not prove anything, it is not material. The issue is, what happened that night, and

it is not whether these firearms were used six months before. If you have any evidence, however slight, that these arms were used that night, from the arms themselves, I will admit it might be material, but you have nothing on the arms themselves. And all this witness testifies to is that something or another indicates that they were used.

MR. TOMS: Supposing a bloody knife was found at the scene of an alleged crime; would your Honor exclude that because we could not show that the blood that was on it came from the body of the deceased?

THE COURT: No.

MR. TOMS: We have shown shots fired on this night.

MR. DARROW: It would have to be fresh blood.

MR. TOMS: No, it would not have to be fresh blood at all.

MR. DARROW: If it was a recent homicide it would.

THE COURT: It has been proved conclusively that shots were fired; and, you have put in evidence the guns and you have put in evidence these bullets. That is not even disputed. It is conceded on all sides.

MR. TOMS: That all of these guns were fired?

THE COURT: Not that all of the guns were fired.

MR. DARROW: That shots came from that place, you have shown.

MR. TOMS: I want to show to what extent all of the defendants participated.

MR. DARROW: That is the very reason why it is not competent, because it does not show that any single

gun here was fired that night. That is the very reason.

MR. TOMS: We have shown volleys fired from this house. Now, whether or not that came from the repeated firing of one gun in the hands of a defendant, or a number of guns in the hands of several defendants, is certainly of the utmost importance.

THE COURT: How would you prove it?

MR. TOMS: This testimony is competent to prove that all of the guns had been used. It at least would forestall the claim that none of these guns shows signs of having been fired. That statement could not be made, with impunity, with this evidence in.

MR. DARROW: Well, if we offer any proof that these guns have never been fired, they would clearly have a right to rebut it. But, as far as we are concerned now, we do not expect to offer any such proof as that. If we do offer a proof that any one of these guns had not been fired at any time, of course, they would ^{have} the right to rebut it.

THE COURT: Of course, the great danger of it, Mr. Toms, is that we do not know when they were fired.

MR. TOMS: We do not claim to know that. We do not offer it for that purpose.

MR. MOLL: We offer it for what it is worth.

THE COURT: It is that which satisfies me that I ought not to admit it.

MR. TOMS: Well, I ought to be allowed to meet any anticipated claims, at least, concerning the res gestae on the part of the defense. For instance, I ought to be

allowed to anticipate that they will claim this defense, and to meet it now, without waiting for them to put in testimony. Now, I anticipate that they will claim that these shots were fired by one or two defendants. I may be wrong in that, but I ought to be allowed to stop every claim of the defense if I can.

MR. DARROW: These guns are offered in evidence as bearing upon the question that a considerable number of the defendants participated in the shooting that night. If it is not good for that, it is not good for anything. If it does not help prove that more than one of these defendants participated in it that night, it is not of any value.

THE COURT: I think it is too dangerous. How do you know that what one gun was discharged two hours before, or two days before or two weeks before?

MR. TOMS: I do not. But I do know that the guns that were in that house had been discharged; which forestalls any claim that they never had been used.

MR. MOLL: I think if the court please, this is analogous to a situation where a suspected person may be arrested two hours after the commission of a crime, and found with a loaded gun and two cartridges which had been exploded. I think that would be competent, as bearing on the question of identification or his participation in the crime charged. It would surely be competent to show the arrest of the individual, and the fact that at the time of his arrest he was armed with a gun. Now, we will assume

that he is a suspected murderer. We will assume that the testimony shows that there were two bullets found in the body of the deceased. It would be competent to show that the gun of the accused was found to contain two empty cartridges. Now, you would not necessarily have to show by expert testimony, or other testimony, just when these shots were fired; but that would be a circumstance surrounding the res gestae, and also bearing on the identification of the accused.

MR. HAYES: Well, you would have to connect the accused with it in some way.

MR. MOLL: Yes.

MR. HAYES: There are two guns there that do prove something. There are two guns there, which have not been fired. Obviously those guns were not used that night. On the other hand the fact that other guns were not cleaned, or may have been used afterwards, or in the last six months, does not prove anything, concerning the issue which we are trying here. If we have a gun here like this, and that gun is dirty, and the Lieutenant testifies that it was fired, it is impossible to suggest that it was fired that same night.

MR. TOMS: We have got this situation -

THE COURT: The jury may be excused.

(The jury thereupon left the court room and the following proceedings were had out of the presence and hearing of the jury).

MR. TOMS: If I may say this, without being redundant, - and I do not want to be captious, -

THE COURT: That is all right, Mr. Toms.

MR. TOMS: We have this situation: We have bullets of a certain calibre; they are admitted in evidence. We have the testimony of a number of shots fired from a house. We go into that house, and we find a gun of the same calibre as the bullets which are found. That gun has been fired. It may have been fired at the time the bullets were, or not, we do not know. But isn't it competent, isn't it a part of the chain of proof, - the bullets, the sound of firing, the finding of a gun with powder marks on it? Standing alone, we admit it would not have any probative value. But, if we merely found a gun in a house that had been fired, that is not of any weight alone. But we have got bullets of that calibre. We have got the sound of guns fired, and the flashes of guns. That is what makes the gun itself competent, because it shows when the firing did occur. The gun itself does not show it.

MR. HAYES: Of course, they have guns, and they have the bullets, and the calibre of the bullets is the same as that of the guns. They have also proved shooting. What else is added to it by this proposed testimony? Those bullets fit those guns. They have shown the inference that has been drawn from that. Nothing can be further added to the inference from the fact that these guns were fired some time in the last six months. The only way this could prove something would be along the negative line. If those guns were

clean, it might prove something, and we would take advantage of it, of course. If what Mr. Toms has said is the truth, then they have made their inference from it. They have got the most out of it. They have proved the shooting.

THE COURT: If you had any objection to the testimony showing that the guns have simply been cleaned, or that testimony with reference to it given by the officer that they had been recently fired -

MR. TOMS: He does not say that.

THE COURT: Some of your questions were not clear, which you asked.

MR. HAYES: I think that would be objectionable, because I do not think it means anything. That is my difficulty. If the bullets fit the guns and there was shooting, they have got every chain of proof that is necessary there, and every inference to be drawn from it. If the guns were clean, that might prove something. If they were not clean, how does it add anything?

THE COURT: They are trying to prove that all guns were used, and several people were firing. Is that what you have in mind?

MR. TOMS: Certainly. Mr. Hayes is continually saying I do not need to prove it, and that it has already been shown. But, how conclusively I have proved the thing, he cannot say, and I do not know. That is why I do not want to gamble with it.

MR. HAYES: If your statement of the facts is true, you have shown three circumstances which mean something.

Nothing is added to it by the fact that these guns may have been used -

MR. TOMS: If I have got some more circumstances, we want to show them. If we have got some more circumstances which will cinch it, we want to show them.

MR. NELSON: But you have not cinched it.

THE COURT: If you show the condition that the guns were in, then each of you can draw your deductions.

MR. MOLL: Here is the witness on the stand. The gun speaks for itself. Here is a witness, experienced in the use of the handling of firearms, who from his observation testifies that the gun has been used. I could probably do the same thing, but I am not the witness. He is testifying to something with reference to this exhibit.

THE COURT: There was a very strong inference that could be gathered by the jury, from the questions asked by Mr. Toms, and the answers taken, that the guns were recently fired. And I do not think I ought to let it go in. That was my opinion before the objection was raised. The defendants here are charged with murder. It suggests an inference that may be very prejudicial to some of them, and on the most delicate and flimsy kind of proof.

MR. MOLL: That might be true.

THE COURT: You have got plenty of evidence about the guns, and the guns being fired, shots fired. There is plenty of proof that guns were fired.

MR. MOLL: If the court please, we have introduced the testimony of many witnesses to the effect that shots

came from the Sweet house. The defense is not necessarily bound by that. We do not know that they are going to assume that same situation. We do not know but what they may try to prove that shots came from some other place than the Sweet house.

THE COURT: You have proved that by your witnesses.

MR. MOLL: Yes, we have proved that.

MR. TOMS: Maybe we have proved it.

MR. MOLL: We have offered the proof. Now, we are offering additional proof of the same situation.

MR. TOMS: Suppose I attempt to clear this up -

THE COURT: There is another thing that has been in my mind, Mr. Toms. I do not think it adds much to your case. You contend that it does. In addition to that, it is perilous. In addition to that, counsel have not been captious in objectin g to the exhibits, the shells, and the guns and everything which have been introduced, and the bullets. They have been received in evidence. The whole thing has been pretty loose, because you have already agreed.

MR. TOMS: Suppose I were to ask the witness, could he tell how recently these guns have been fired, and he will say no.

THE COURT: This has occurred to me: The prosecu-
6 tor has the right to present these guns, just as they were fired, and then they would have a right to argue the deduction that, from the condition that the barrel is in, that it has been fired. And, with very much force, you may be able to argue that it does not mean anything.

MR. NELSON: I do not think you could argue that without evidence, if your Honor please.

THE COURT: Without what?

MR. NELSON: Without evidence showing that the condition that they are in shows that they have been fired. And that is the situation here. But, I do not think it adds anything to put this proof in.

MR. TOMS: You are so worried about what will be added to my case.

MR. HAYES: We certainly are. We do not intend to have you get anything in that is not material.

MR. MOLL: If your Honor please, the advantage of this testimony is this: Without the testimony, you may ask how the jury will determine, from a casual examination of the exhibits, whether or not the guns were fired. Here is Mr. Johnson to whom these exhibits were turned over the following day, and who made an immediate examination. He is in a far better position to testify, from his examination made on the 10th of September, whether those guns showed evidence of having been fired, than the jury is, to examine them now and determine the same question. Now, if we do not introduce proof of this kind, it will be immediately argued that there is no evidence in this record to the effect that these guns were used, or that we have found guns which were fired. And they will claim, they might possibly claim, based upon that, that the shots came from some place else other than the Sweet house.

MR HAYES: Is it any evidence to show that guns were fired since they have been manufactured? Is it any evidence to show that they were fired since they were manufactured?

THE COURT: That is just the situation.

MR MOLL: It certainly is.

MR TOMS: I do not say it is conclusive evidence. But, taken with other proof, it is some evidence. It is at least competent, no matter how much it weighs.

MR FRIEDMAN: This witness testifies, from an examination made in open court to-day, as to whether or not the guns have been fired. He testifies, from an examination that he made in open court to-day, as to whether or not the guns had been fired.

MR MOLL: I do not think that is so.

MR NELSON: His testimony now is, that you have got before the jury, that he examines these guns and finds them thus and so.

THE COURT: Have you previously examined these guns?

THE WITNESS: I looked them over that night, and the next morning; that was the night of the shooting.

MR DARROW: There is the thing that Mr. Toms argued, that three or four of them give evidence of having been discharged. Now, you find several.

THE WITNESS: Of the revolvers.

MR NELSON: The testimony is on the examination here and now.

MR TOMS: Well, what of it? There has also been another examination.

MR NELSON: Well, it has been a couple of months.

MR TOMS: There was one, two months ago.

MR NELSON: And he does not profess to testify from recollection of an examination made on the day following the shooting, not at all. The examination is as of to-day.

MR TOMS: Well, even so;—we are getting away from the issue.

MR HAYES: The point is, how can the fact that a gun has been fired since it was manufactured, how can that be any evidence whatever as to whether a gun was fired at a particular time, which is the issue here? See how dangerous it is? Supposing you have two guns, each a 38-calibre revolver, and you have a lot of 38-calibre bullets, and they fit either one of those guns; and now they want to prove that both guns have been fired. Can they do it by a witness who will say that those guns have been fired at some time after they have been manufactured? Of course, not. It is a preposterous conclusion. I was under a misunderstanding as to what this witness testified to. I thought he said that they had been fired the night before. If his testimony merely is that they have been fired sometime after they were manufactured, then it ought not to go before the jury, because nobody can assume that testimony of that sort should be allowed in evidence unless it meant a great deal more.

MR TOMS: It never occurred to you that the evidence that was already in was anything but competent.

MR HAYES: Because I did not know that he was testifying

that those guns had been fired since manufacture. I thought he could tell that they were fired that night. When we found that he could not tell that, we objected.

MR TOMS: How could any man tell that? No man could testify to that.

MR HAYES: Then you cannot prove it. Why ask a man to testify to something that a jury might infer means that, when no man could testify to it?

MR MOLL: What possible danger could this testimony have? What danger could it be to show that those guns had been fired?

THE COURT: I think that is right, Mr. Moll, as long as there is not any inference here.

MR DARPOW: Then of what value is it, if your Honor please?

THE COURT: Here is why I have excluded it, why I have sustained the objection: It is too speculative, too loose, and leaves too much chance for vague guesses.

MR TOMS: I offered to cover that. I offered to cover that by---

THE COURT: The defendants here are charged with murder. In ever instance of that kind I try to let both sides know how I would rule if I were in doubt. I would rule to prevent any inferences being gathered against the accused. It is my duty to do that. They are charged with murder. I am not going to let anything in, any evidence, that may be vague or speculative.

MR TOMS: Let us do that by testimony, if your Honor please. Let us have the witness admit that he does not claim

to be able to testify that these guns were fired on the 9th of September.

MR HAYES: Then, it has no value, and it is objectionable.

MR NELSON: It leaves it right where we were before.

THE COURT: No, I do not think it does. I think the prosecutor has the right to show the condition of the guns that they found. If he can put in proof there as to how he found these guns, then you can show that he does not know anything about when they were fired.

MR TOMS: I will show that.

THE COURT: It does not mean anything at all, as to that. That is what I do not want to get into this record. I do not think you have got the right to ^{say} ~~show~~ to this jury that these guns were fired on that night.

MR TOMS: Of course, not. We do not claim that right. But we have clearly the right to forestall any attempt to show that those guns have never been fired.

MR PERRY: Supposing that is so. What difference would it make? Supposing they draw the conclusion that they had been fired that night; and suppose that three guns were fired that night, and four guns had been fired the second month before; would that be fair to the eleven defendants?

MR MOLL: There is no prejudice, in view of the fact that we have testimony here, from possibly thirty or forty witnesses, that shows came from the Skewt house.

MR TOMS: We do not pretend they were new guns.

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MR MOLL: That does not mean that the defense is bound by that. They can rebut the proposition that the shots came from that house, and may make the claim that there is no testimony that these guns were fired there or were ever used. I think it is harmless to show that they have been used, as long as it does not carry with it the pretense that they were used that one time.

THE COURT: You have the right to show that they have been used. Now, when they have been used---

MR HAYES: Suppose we admit, your Honor, so as to cut out all difficulty, that those guns have been used for some time; we will say in the record, we admit that, absolutely, these guns have been used.

THE COURT: I will tell you what I think I will do. I will let the ruling that I have heretofore made stand, and exclude all of the questions and the answers which have been made; and I will permit Mr. Toms to proceed to show by this witness that these guns have been used, and the condition that they were found in.

MR TOMS: With the understanding that I won't ask the witness anything about when they were used?

THE COURT: Yes.

MR NELSON: That he cannot tell when---

MR TOMS: I want to get his Honor's understanding from him. Wait a minute. His Honor speaks good English, and I understand him. Do I understand that I am to specify that the witness does not claim to know when they were discharged?

THE COURT: That he does not know when they were fired.

MR HAYES: I wish I could persuade you to go a step further, please, one step further. As I say, you have guns here of the same calibre of the bullets. The attempt here is to prove that all of these guns were fired, because the bullets fit these various guns. We would be perfectly satisfied, so as to save any difficulty about it, so that the jury will know, to put on the record that these are not guns that are new, and that these guns have been fired before. If that is all that the District Attorney wants to prove, I think our suggestion would be sufficient. On the other hand, if he wants anything more, if he wants to prove that from the witness, it is perfectly clear that his reason must be because of some ulterior effect that may be made by such testimony. If all that he wants to prove is that at some time these guns were used, I will agree to it.

THE COURT: Well, they have the right to prove that which I will not deny them the right to prove, and that is that they have the right to prove the condition in which these guns were found. I think they have got the right to show how the guns were found, just as much as they have the right to show an empty cartridge, or a gun barrel.

MR HAYES: How about the witness' conclusion?

THE COURT: I would even go further, to protect the accused. I will charge them myself, either now or subsequently, that they have no right to gather that they were fired at that time.

MR HAYES: Has this witness the right to say anything more than that a gun barrel is dirty? Can he draw an

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inference from that?

THE COURT: No.

MR. TOMS: There is just the difficulty. The witness may say that the barrel is shiny, or that the barrel is dirty. The jury can see that. But here is a witness who is experienced. This is expert testimony drawn from him.

THE COURT: To what effect?

MR. TOMS: Of the fact that it is powder marked; and that shows that it has been fired.

THE COURT: That the gun has been fired.

MR. TOMS: Yes.

THE COURT: Yes, I think you may show that.

MR. TOMS: In fact, that is all I have shown.

THE COURT: No, you haven't, Mr. Toms.

MR. TOMS: All right, we can correct that very easily.

THE COURT: Bring in the jury.

(The jury thereupon returned to the court room and the following proceedings were had in the presence and hearing of the jury):

- - - -

Q (By Mr. Toms continuing): Mr. Johnson, when ^{did} you examine these ten exhibits first?

A On the night of September 9th and the morning of September 10th.

Q At that time will you state whether they or any of them bore powder marks?

A Yes, sir.

Q In the barrel?

A Yes, sir, some of them did.

Q From that what is your inference?

A That they had been fired.

Q That they had been fired?

A Yes, sir.

Q You do not attempt to say when they had been fired?

A No, sir, I do not.

MR. TOMS: That is all.

CROSS EXAMINATION

BY MR. DARROW:

Q All there is to that ~~xxxxxxxx~~ is that they had been fired since they had been manufactured?

A At some time since they had been manufactured, yes, sir.

Q How many of them does that answer apply to?

A Well, from what I know of firearms, the arms are fired after they are manufactured, on a test. Some of them are taken care of before they are - - well, they are all taken care of before they are put on the market.

MR. TOMS: You mean properly cleaned?

A Yes, but these particular ones that I speak of have been fired and not taken care of.

Q They had been fired at some time and not been thoroughly cleaned, is that it?

A They had not been properly cleaned.

Q Of course, you have no means of knowing when, how often or where?

A No.

Q How many of these guns are old guns, do you know?

MR. TOMS: Are old?

Q Yes.

MR. TOMS: When does a gun become old -- like a man?

MR. DARROW: I do not know; about the same time that a lady does, I guess.

MR. TOMS (To the witness): Do you know?

A No, I do not know how new they are.

Q They are not new, are they?

A I do not know how new they are.

Q Have you examined them as to that?

A That is^{is}/thing it is practically impossible to tell. It all depends on how a person takes care of his guns.

Q How many of them did not show any powder marks?

MR. TOMS: Two.

A Two of the cylinder revolvers. The automatics I could not say anything about them.

Q How many automatics are there?

A Two automatics.

Q That means two of them did not show any powder marks, and the automatics that you cannot tell anything about?

A That is right.

Q Mr. Johnson, did you find the bullet which passed through Briener?

A There were two ^{bullets} lead^s that we picked up in between the houses at 2912 and 2914 Garland Avenue, and the next house to it.

Q Have you got the numbers of those? Can you pick those out?

A Yes, they are down there some place.

MR. TOMS: Do you know the caliber of these (indicating)?

A They are about the size of 38-40.

Q Oh, let it go.

(A bullet was marked Exhibit 54.)

Q You say that there was a bullet hole in one of the screens on the Charlevoix side?

A There was a hole in one of the screens of about, not quite a half inch in diameter.

Q Which you took to be a bullet hole?

A Yes, sir.

Q And which window was it?

A That was in the larger window in the front.

Q Of Charlevoix?

A On the left side. It is the larger window toward the front of the house.

Q Were there screens on the north side of the house?

A It was a mosquito cloth.

Q What?

A It was a cloth screen.

Q Any holes in them?

A There was a hole, in the one farthest to the rear, the closet.

Q Otherwise there were no holes in them, were there?

A No.

Q What did you find in the one farthest to the rear?

A There was a hole.

MR. HAYES: Is that the one (indicating)?

A Yes, sir. It was torn off from the upper corner, a hole about a little larger than a man's fist.

Q That was right on the level with the rest of the building, wasn't it?

MR. TOMS: We have a photograph of that if you want it?

A Yes, sir.

Q That window is right along the level with the rest of the building?

A It is on the same floor, the second floor.

Q Well, it is not a protruding window at all, not a bay window?

A No, sir.

Q That is all.

REDIRECT EXAMINATION

BY MR. TOMS:

Q Just a minute. I show you this envelope containing two lead bullets marked Exhibit 54. Where did you find those?

A These bullets were picked up between the first two houses

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on the east side of Garland Avenue.

Q That is, between the Dove house and the house to the north of it?

A Yes, sir.

Q Right in there?

A One of them was picked up about four feet back from the edge of the porch, and the other one was a little farther back.

Q But in between the two houses?

A Yes, sir.

Q I offer these in evidence.

MR. DARROW: Have you offered that yet?

MR. TOMS: Yes, I offer it in evidence.

MR. DARROW: They are accepted. There is no objection that I can see.

Q Can you tell me the caliber of these two bullets in this last exhibit?

A I would say they are 38-40 caliber.

Q You are comparing them with a 38-40 unfired shell?

A Yes, sir.

Q That is the way you judge?

A Yes, sir.

MR. NELSON: I think these two bullets are objectionable.

MR. DARROW: Let me ask a question on this first.

MR. TOMS: Yes.

MR. DARROW: You cannot tell with any certainty what caliber those are?

A Not without weighing them up, only just by comparison there.

MR. DARROW: All you know is that ^{you} picked them up between these two houses?

A Yes, sir.

MR. DARROW: Where were they, on the ground?

A They were on the ground.

MR. DARROW: I object to them.

MR. TOMS: You observed certain bullet marks on the front porch of the Dove house?

A Yes, sir.

MR. TOMS: From the direction of those bullet marks state whether or not these bullets follow the course of a line from the Sweet house through those steps. Do you get what I mean?

A No.

Q (By Mr. Toms continuing): I don't blame you. There are certain bullet holes in the north steps of this Dove house?

A Yes, sir.

Q Was the place where you found these two lead bullets in a line between the Sweet house and those steps?

A Yes, sir.

MR. HAYES: Don't you think that is objectionable? Why don't you ask him where he found them? Let us see whether they are in line.

MR. TOMS: He testified to that.

MR. HAYES: The conclusions are for us to draw, your Honor. I object to the question.

THE COURT: It is leading.

MR. TOMS: I forgot all about that objection. All right. That is already in evidence. These bullets are on a line between the Sweet house, where the testimony shows the firing occurred, and the steps through which bullet holes run.

MR. DARROW: They are on a line with every house in the block on that side of the street, if you draw a line.

MR. TOMS: No, they are not. If you draw a line through the bullet holes to the Sweet house the other end of the line will end up where these bullets were found. That is already in evidence.

MR. DARROW: That depends then not on the bullets, but on the holes.

MR. TOMS: Made by the holes.

MR. DARROW: Yes. We haven't got any evidence on those. That is, you can draw a line from any point on the west side of the street for five blocks to the place where these bullets were found.

THE COURT: Mr. Toms, it is not claimed that either one of these bullets was the bullet that brought about the death of the deceased, or hit the other man.

MR. TOMS: We have no way of knowing.

THE COURT: Exactly where were they found, from his testimony?

MR. TOMS: From the testimony they were found in between the Dove house and the next house north, one

about three feet from the steps, and the other farther back.

THE COURT: On the ground?

MR. TOMS: On the ground.

THE COURT: Two shells?

MR. TOMS: Two lead bullets.

MR. DARROW: Oh, we want to object to it, your Honor.

MR. TOMS: You want to or you will not?

MR. DARROW: We will object to it.

THE COURT: I will sustain the objection, it is too remote.

MR. TOMS: I have shown the bullet holes. I have already shown the holes.

THE COURT: There is no way you can identify these.

MR. TOMS: I cannot identify the holes.

THE COURT: You have identified them by the testimony of the witnesses.

MR. TOMS: I can show that these bullets are the same caliber as unfired bullets.

THE COURT: Mr. Toms, how could you or the jury or anyone know when those bullets were fired, or whether they were bullets that had been left there a long time ago?

MR. TOMS: Your Honor, again we approach the weight of the evidence.

THE COURT: We would have to guess about it.

I will sustain the objection.

MR. TOMS: That is all.

MR. DARROW: That is all.

(Adjournment.)

Clyde B. Kennedy
Boat Monroe

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fore, in order that our play may be carried out as far as possible, please do not discuss with any person anything that is said in argument. It is to be expected that a disturbance will take place that will interrupt our theme presentations and it will be necessary for you to exclude you from the territory. I do not want you to be absent but I must think it will be necessary for you to be careful.

ARGUMENT OF
CLARENCE DARROW

of the jury: I think it was not my duty, that I should
Commencing November 24th, 1925.
I am afraid it would be an error to say that I am
won't help it any more than I can. I am sure that I
a good deal of your time will be all right and I
and I am certain that questions of your knowledge of it
it is. There are some reasons why it is important
the first place. These people are not here to
which might be a very important part of the
is concerning. In the next place, I am sure that
cover all of it and understanding it is the only way
whether or not you are a good and honest man and
and their calling upon their institutions. I am sure
may of you are in a fairly good position of affairs.

1:15

THE COURT: Now, we have tried to permit as many people as possible to come into the courtroom and hear the argument, and I want to say again that which I said before, in order that fair play may be insured as much as possible, please do not demonstrate your feeling about anything that is said in argument, because if that is done a disturbance will take place that will interfere with these proceedings and it would be necessary for me to exclude you from the courtroom. I do not want to do that and I do not think it will be necessary if you will all try to be careful.

MR. DARROW: If the court please and gentlemen of the jury: I wish it was not my turn, that I did not feel it was my duty to talk to you in this case. It is not an easy matter to talk about a case of this sort, and I am afraid it won't be an easy matter to listen but you can't help it any more than I can. This case has taken a good deal of your time but we are pretty near the end, and I am certain that everyone of you knows how important it is. There are many reasons why it is important. In the first place, eleven people are on trial charged with a crime which might involve imprisonment for life, which is something. In the next place, back of it all, hanging over all of it and overshadowing it is the everlasting problems of race and color and creed that have always worked their evil in human institutions. If I thought any of you had an opinion against my clients, I would not

worry about it because I might convince you; it is not so hard to show men that their opinions are wrong, but it is the next thing to impossible to take away their prejudices. Prejudices do not rest upon facts; they rest upon the ideas that have been taught to us and that began coming to us almost with our mothers' milk, and they stick almost as the color of the skin sticks. It is not the opinion of anyone of these twelve men that I am worrying about; much else is the evidence in this case, for I know just as well as I know that you twelve men are here at this minute that if this had been a white crowd defending their homes, who killed a member of a colored mob, you would not leave your box. I don't need to say that no one would have been arrested, no one would have been on trial, and I would not have worried, and you know it, too. My clients are here charged with murder, but they are really here because they are black. Let me see if there is any difficulty in showing. Now, I would guess that a good share of your twelve men are not only holding in your hands the future and the destiny of my eleven clients, but to a certain extent are determining the problems of two races - - not fully for it will take ages to determine that fully - - but you happen to be a jury on one of the most important matters that enter into the settlement of this question. If I felt sure that none of your minds had any prejudice against my clients, I would have no fear. I do want you to be as unprejudiced as you can be.

Let us see how many of you have close friends who have African blood in their veins? How many of you have visited their homes? How many of them have invited them to your home to dine with you? If not, why not? Is it anything except a long feeling of race distinction that has come to us? We know not where it came from or how deep it is. Is there anything else? You know there is not. We have presented witnesses upon this witness stand that are as intelligent, as attractive, as good looking as any white man or woman, and who are as far above the bunch which testified against these men as the heavens are above the earth and you know it and they know it. And, yet, gentlemen, ask yourselves the question - - here is Mrs. Spaulding and her husband - - I say to you and I know it won't be the least offensive - - that you can scarce pick out two friends you have better appearing, finer intelligence, greater culture, than those two people. I can say without testifying that I seldom have seen in my life any better. If you go out of this courtroom and should meet them again, how many of you would ask them to your house to dinner? Mind, I am not blaming you; I am just stating a fact which is deeper than anything you gentlemen know of. That is all. I can't help it; we can't help it; it is there.

Is there any reason you could give for it? I will guarantee that there are many of you gentlemen that are acquainted with colored people whom you respect and honor and whom you believe to be the equal of whites. Do you associate with them? No. Why not? Of course, there

is some of us due to some extent, but why not? Because of prejudice, that is all, nothing else in the world, and it is so deep that we do violence to our own feelings, and, of course, to our own reasoning, and reason cuts very little figure in the activities of men anyhow. It is so deep that if we stop to think of it we are ashamed of it, but it is there and we can't help it, and we have got it. I don't know how deep it is, I don't know how firm seated it is, I don't know how well you can overcome it, but I have a right to ask you, and I know you will do your best; I have a right to ask you to overcome it for this case at least and treat these men as though they were white, and I would ask no more than that.

Let me say another thing: I don't need to talk to you about race prejudice and the motives that are back of this case and the terrible history that is back of it stretching back into the time that we have no record of, as old as the human race itself; I don't need to talk about it; we know it. Here is eleven people, which is about as many as there are on this jury, on trial for killing a white man. Your faces are all white or what we white men call white; it is not white, it is a sort of a yellow, but we call it white because we think it looks better. Here is eleven black people on trial before twelve whites, gentlemen. We have not got one here, not one, not a single one, and it would not be possible to get one.

Reverse this! Supposing one of you were charged

with murder and you had shot and killed somebody, while they were gathered around your home, and the mob had been a black mob and you lived in a black man's land and you had killed a black and you had to be tried by twelve blacks, what would you think about it? What would you think about it? You would probably think of pleading guilty and asking the mercy of the court. Now, that is this case, gentlemen. I haven't any doubt but what this jury is as fair and has as good intentions as any jury I ever saw. It seems so to me but I don't care what your intentions are or how good you are or how intelligent you are, I know perfectly well that when you find a man who has no race prejudices you have got to find one out of a thousand.

Now, I am going to say some things about these witnesses who come here to testify in this case, called by the state. I think everyone of them lied, perjured themselves over and over and over again to send twelve black people to prison for life; there is not an honest person in the whole bunch. Now, let me qualify that: If I were to go to them on any ordinary thing, I would find them like everybody else, wouldn't I? The owners of small homes living their lives, no doubt kindly to each other, no doubt in the ordinary affairs of life honest and decent; but in this case man and woman and child alike have come into this court and under oath have deliberately lied to send eleven people to the penitentiary for life, and I will prove it; and there is not an officer who has testi-

fied in this case that is not partially guilty of this murder and who to shield himself has not perjured himself on account of the character of this case, and I will show it. What does it mean? It does not mean that officers are worse than other men; it does not mean that around Garland and Charlevoix there are living people who are worse than other people picked from the community, not at all. I would not be afraid to go there to live, you would not need to be afraid to go there to live, but it means that the almost instinctive hatred of the white for anything that approaches social equality is so deep and so abiding in the hearts of most white people that they are willing to perjure themselves in behalf of what they think is their noble, Nordic race.

Now, gentlemen, have I exaggerated? Not one whit, not one whit, and you gentlemen know it, you gentlemen know it. Now, some of that is in you and you and you; possibly some of it is in me. I hope not, but possibly it is; that is what I am afraid of in this case, gentlemen, and that is all I am afraid of in this case, that is all I am afraid of in this case; there isn't any human being who knows anything about this case that does not know now why it happened, not one; there isn't any human being, whether he be a policeman, a neighbor, a prosecutor, a juror, a mere spectator, that does not know what happened; and, yet, gentlemen, what would they do in a Christian community? Take a family who had as much right to buy that home as any other person in the community under the law,

take a family and seek to drive them out by force, and not content with that, send them to the penitentiary for life and place the property in the hands of the police department so you can't get in without asking them.

There is only two things that I know of that have produced that kind of a feeling in men -- there may be more, I suppose there are -- race prejudice and religious prejudice; both of them will do it. It will take good, kindly, human men and women and make them fiends, any particular thing; throw reason to the wind and throw justice to the wind and throw mercy to the wind. A mother will love her baby if she is white and if the baby is white, but she has no feeling of sympathy for the black mothers or the black child.

Now, gentlemen, I know that I am stating what is true, and everyone in this jury knows that I am stating what is true; and I will go further and say that I believe everyone of you twelve men want to do what is right in this case. I don't think you came here and told me what you thought and what you would do and what you could do without believing you could do it. I don't know whether you can or not, gentlemen, but if I did, I would stop talking to you. If I knew you could not, I would stop, and if I knew you could I would not have started. I don't know. You don't know. You are not responsible for prejudices; you are breathing them out of the air, you get them at your mother's knee, you get them on the street;

it is an everliving thing that grows. You didn't get it, you can't tell where you got it; it came as the sunlight comes and it has come during your whole lives and there it is.

Do you suppose I would win this case, gentlemen, if I had twelve colored people? I think I would. Is that because they are better or because they are worse than you? Not at all. Suppose I had twelve of the most intelligent and honorable colored people in the world in this jury box - - and you all know that there are many intelligent and honorable colored people, I don't need to talk that to you, none of you are that prejudiced - - do you think I would have any worry over this case? Do you think Mr. Toms would prosecute it if he thought twelve intelligent colored people were to determine it? No, no, I doubt if he would if he thought there was one, one, and I am not blaming him and I am not blaming anybody. The older I get the less I feel like blaming other people, the less I like to have them blame me, because we are all mixed up with life and the circumstances and everything that surrounds us and everything that went before us, and we can't tell what we do or why we do it when we do it, that is all.

So, gentlemen, this is the situation which is in front of us; I have got to ask you twelve men to lay aside all your prejudices of race, but you can't tell; I have got a right to ask you for the sake of this case

at least to put yourselves in the position of these eleven defendants at the time; I have got to ask you to draw on your imagination and think how you would fare if you were white, as you are, and had killed some black person in a black community with a prejudice against you and had to be tried by them; that is this case, gentlemen. And I am going to ask you gentlemen, everyone of you, to watch yourselves that you do no injustice to a race that has received nothing but injustice in its whole history from the hands of the whites. We can't understand them and won't understand them; we will take their labor, but nothing else.

I was down south a while ago in Tennessee - - you heard about that?

MR. TOMS: I heard both sides of it.

MR. DARROW: And the white people down there, they think they know how to manage the negro - - or the nigger, as they call him and as many of us call him when he is not around; they say they are good to him because they love their black mammy. Then I hear a man say that, I know that he loves the nigger just as he loves the black mammy, he likes to eat off him. I know it. I heard them telling how the nigger kept his place in the south. His place was the place of a servant. I was investigating a little about religious conditions down there.

MR. TOMS: They tell me they are terrible.

MR. DARROW: They are pretty raw. I asked a preacher* which denomination has the most disciples

down there? " I said, "Which, the Baptist or the Methodist?" Of course, I did not count the Catholics at all, and I knew that mine hadn't any. He says, "If you count the colored people, the Baptists have the most." I said, "Well, as far as I can make out that is the only place you ever do count them, in making up certificates for religious membership." He said, "That is about right, you count them there to see which had the most members but that is all."

Now, we have been born with some of that psychology and some of that feeling, we got it and that is all.

Now, let us see about this case. Is there any mystery in it? I think not. There may be some things I won't discuss. I have got a right to make some presumptions to a jury, and one is that you are fairly intelligent. Now, mind, I said "fairly". I don't want you to think I am overdoing it, gentlemen; I said just fairly intelligent. There are some things that you know even if you are jurors and got by both sides, and some things you have got a right to know. I don't need to take any pains to prove to you that the sun is shining on a sun-shiny day; you can see it. I don't need to take any pains to prove to you what was the cause of this trouble down at Charlevoix and Garland, do I? If you don't know it, you are stupider than any people I have ever seen in the jury box yet, and I have seen some "daisies" in

my time. You know all about it. I will just call one witness on that question, and he is biased and prejudiced and I am not going to guarantee his truthfulness because after a while I am going to show you he is not truthful, but I just call one witness. I will call Professor Johnson here at the head of the table, chief of police. They got Dr. Sweet into their sweat box to take a statement, as he says, so he could see if he was innocent and turn him out. Well, any time - - never mind, I will talk about that later. And what did he say to Dr. Sweet? He said, "Doctor, what business had you to move into a white neighborhood where you were not wanted?" Now, why did he say that, gentlemen? Here is a man who is there to learn the cause of this shooting and the first question he asked of this defendant was "What business had you to move into a white neighborhood where you were not wanted?" He knows what happened. Any reason why any of you should know it as well as Johnson? Not a particle. You do know why it happened. It happened because Dr. Sweet moved into a white neighborhood. Now, I don't need to argue about that, you know it.

What kind of a man is Dr. Sweet? Out of these twelve over here, half of them are at least college graduates, or attending college.

MR. TOMS: You mean the eleven.

MR. DARROW: Eleven. They could compare almighty favorably with anybody that lives around the corner of

Garland and Charlevoix, wouldn't they? Dr. Sweet had a humble origin, as most all blacks - - and some of our whites - - have. He had ambition and he worked his way up and is a graduate from college and a member of a learned profession; he earned the money to go to Europe and complete his medical education in Vienna. Any reason why any of you should be ashamed to associate with him? No, there is no reason. There might be some feeling, I am not saying about that, but no reason, the reason hasn't anything to do with it; maybe you would not. Is there anything criminal about Dr. Sweet? Would you be afraid to meet him in an alley? Not for a minute. You know there is not the first element of criminality in him. Would you hesitate to go to him as a physician? Don't you know he is a fine fellow? Don't you know that everyone of these defendants are fine fellows, every last one of them? How do they compare with the white witnesses in this case? And, yet, gentlemen, they could not live at the corner of Charlevoix and Garland, which is not especially a high-toned neighborhood at that, nothing swell about it, nothing very great about it at all. Why, I would not want to live in any less swell neighborhood than that, and I am very democratic at times; and, yet, they were up in arms because he was going to move to the corner of Charlevoix and Garland.

Let me go a step further with you. I could guess that, perhaps - - I don't know; I have sat around

here and watched you pretty closely for a long time but it is awfully hard to tell what you are thinking about; sometimes you watch a fellow closely to find out what he is thinking about and afterwards you find out he was not thinking about anything, and that is the hardest thing of all - - I don't know how it is, but from what I know of other people and other jurors I would guess that some of you - - maybe most of you - - believe that colored people should have one neighborhood and white people the other. If you ask me what I think about it, I would say I don't know. That is an idea - - I have an idea that that is not the right way, but I can very well understand that many very rational and considerate white people believe it; I can very well understand it, but, gentlemen, there are certain difficulties there. The law, the constitution and all the rest of these instruments that we sometimes look to - - sometimes - - unless we belong to an organization like this Water Improvement Association which says it believes in law and order - - and I am always suspicious of anybody who brags about law and order; they are suspicious. They may believe in law and order, but they have a queer way of enforcing it down there - - more order than law.

Let me go on with that thought before I get twisted off of it too far; the law of the State of Michigan and our Federal laws give a colored man a perfect right to buy a piece of property wherever he wants to.

Now, they have tried segregation in various places; some people think it works and some don't think it works; I am not interested in that. Perhaps segregation is right, but if it ~~is~~ is right, then it should be embodied in the law, shouldn't it? Am I wrong about this? If it is said that colored districts shall be set off for colored people and white districts for white people and medium districts for medium people and so on and so on, why, then, they ought to pass laws to that effect so a man will know where he belongs and know what the remedy is if he gets where he does not belong. That is not the question that concerns you gentlemen. Here is a city, which is like many of our Northern cities, where there has been a great influx of colored people in a few years, running as the evidence shows to, perhaps, from 10,000 to the neighborhood of 70,000 or 80,000 in a few years in the city of Detroit. Now, I don't need to argue to you for a minute to show they have got to go somewhere. The people of Detroit have been willing to have them come here to make automobiles and do other things so that we can ride. If they had not got work they would not have come, would they? They have invited them here by hiring them, and there is no reason why they should not come under the laws and Constitution of our country, and they are human beings, all but their color; they are here and everybody who lives wants to keep on living. I don't know as I could tell why, but they do, and they have got to live somewhere, haven't they?

They have got to live somewhere. They are ambitious and they should be ambitious and they have got to go somewhere, and if the law says they have a right to buy a piece of property, then I submit, gentlemen, that no body of citizens with clubs and stones and force and violence and intimidation has a right to drive them out. Put yourselves in their place, what would you do? You know it. You may even say the law is wrong and it should be something else; still, there is not a man on this jury who can say to himself under his oath and in the presence of the serious consequences of this case that he will carry any doctrine into this jury box that a white mob had the right to go and drive out a colored man who has a legal right to buy a home and raise his family and attend to his business, and the same right that you and I have; you can't say that.

Now, let us see what happened. These people have the right to buy the home at the corner of Charlevix and Garland and they bought it and they paid - - I have forgotten how much.

MR. NELSON: \$3,000.

MR. DARROW: \$3,000 down, and I fancy that is a good deal of money for him. He has got a wife and a little baby and he has got his education; he has told you how he has worked for all of that and how he saved for all of that, and the poor belongings that he carried into his home will tell you the rest of the privations he has gone through to pay \$3,000 down on a home. He is paying \$100 a month to complete a payment of \$18,000, and he probably

has not been able to keep up his payments for the last four or five months since the Improvement Association got after him. I want you to consider him, gentlemen, and I know you will consider him. I ask you just for the short space that you will pass judgment upon these defendants to put yourselves in their place, and nobody can judge his fellow man in this world unless he does put himself in the other person's place and understands what is back of him and around him and everything that urges him on; you can't do it. It is easy for you and me to say that somebody else did wrongly, but we don't see it from the point of view that he see it and with the eyes that he looks out through when he sees this world in which we live. He bought this property, he knew all about it, he knew what a colored man had to meet when he moved into a neighborhood that had not been devoted to colored people. There would not be any colored people in any neighborhood in Detroit if somebody did not hire the colored people to come and, then, if they did not conquer their way into that neighborhood, fighting prejudice every minute. Did you ever think of a colored person - - you and I go onto a street car and we go about our daily work and we never think anything about our color - - did you ever think of a man who can't step into a car or an assembly or a house or an association without the feeling of color and a recognition of what others think about it; of a colored baby, born and going out to mingle with the rest, and, finally,

learning the handicap that this baby is under through all of its life simply because nature made her colored? Did you ever dream at night that you were black and that you would like to go and have your skin all peeled off so that you could be white? Did you ever have any pain, physical disability that you could never get out of your mind in your life? That is what it is. Dr. Sweet had to go somewhere and he went there. Now, what happened? Gentlemen, I am not going to draw on your imagination very much, I don't need to. The facts in this case stand out so plain that it is not necessary. He bought this place and made the contract some time in June, as I recall it. What was the date of this contract?

MR. NELSON: June 7th.

MR. DARROW: June the 7th; he was going to take possession in July or August, and he did not take possession. Why? Because of what he heard about the experience of Dr. Turner at the hands of a white mob in the city of Detroit, who were filled with what Weber and Fields call "Proud flesh", because they were Nordic. So he waited, and the next thing in this series of events is the organization of the Waterworks Improvement Company in that neighborhood. Where is that card? I have got this here (indicating). Proposed objects of the association: "First, rendering constructive civil, civic and social service to the community." They were rendering it on the 9th day of September, A. D. 1925, at the corner of Charlevoix and

Garland. "Constructive, civic and social service, assisting to maintain a clean, healthy condition in our streets and alleys." They were maintaining a healthy condition in their streets and alleys with a mob surrounding a home where a man had a legal - - man and woman had a legal right to live, by driving them into the streets, and that is what they were doing. Next "Observing and supporting the traffic ordinances." Well, now, what do you know about that? "Particularly speed laws, that greater safety and protection may be created around our families, especially the children." They loved the children if they were not black. "Helping out on the traffic." And the first effort that the record shows in this direction was crowding the streets with a felonious mob, as I will show later; a gang of law-breakers who had no rights under the law, not one of them, because they were a mob committing a crime; and I am not asking you to believe me; let the court tell you what is the law. The first interest they had in traffic regulations was bringing such a mob around this corner that the police department of the city had to block off traffic from all four streets; I suppose so the mob would have free play for its glorious activities.

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 What next is this bunch combined to do? "Co-operate with the city departments in all places which will be beneficial to the particular - - in all climes - - " I know it was climes - - "which will be beneficial to this particular community and to the welfare of mankind in general - - "

but to this particular community -- "And an improvement to the neighborhood. Co-operating with the police department."

MR. TOMS: Why don't you read the rest of it?

MR. DARROW: I am going to read every bit of it.

MR. TOMS: "To the whole municipality", it does not end at "neighborhood." Read it out of this, it is a much larger type. (Indicating.)

MR. DARROW: That does end with "neighborhood".

MR. TOMS: Oh, so it does.

MR. DARROW: I would not misquote for the world. Why didn't you call my attention to it. Whereabouts is it?

MR. TOMS: Right here (indicating).

MR. DARROW: Gentlemen, I am trying to get this just exactly as it is and I read it exactly as it is. Yours is just a little bit different there. I wonder if it is in anything else. "Co-operating with the police department that the rule of law and order shall be maintained and our homes and streets made safe for the residents and the public at large."

Now, gentlemen, there I must halt a minute to call your attention to that because that is really quite noteworthy. They were to cooperate with the police department to maintain law and order. And they did, gentlemen, they did. On the night of the 9th day of September, this criminal mob had perfect co-operation with such members of the police department as were gathered around Garland and Charlevoix. Never did any criminal conspirators

come together in the history of the world who had a more thorough understanding than they had, and I will prove it to you conclusively by the evidence in this case. Co-operating to preserve law and order? The members of this wonderful organization who founded it as soon as they heard that Dr. Sweet was going into the neighborhood, then they were going to co-operate with the police and maintain law and order.

There is one thing else: "Co-operating in the enforcement of the present property restrictions and ordinances, and originating and supporting other restrictions." I wonder what that might be, "originating and supporting other restrictions and ordinances that may be deemed necessary to conserve this particular locality that it may remain a desirable community wherein respectable people - - " yes, that is "respectable," I thought it was "white", but it is "respectable - -" "wherein respectable people and property owners may continue to dwell in peace, security and harmony." They had better move into a graveyard and they can dwell in peace, security and harmony.

Now, gentlemen, I don't want you people to think that I place any different psychology in the minds of the residents around those corners than, perhaps, there is among a great number of white people, and possibly a majority, but I can see their side of it. I know what prejudice is; I have been fighting it all my life - - at

least, I have been fighting other people's prejudices to give mine a chance. Maybe that would be better, probably that is better, but I know what it is and I know it is wrong. But here is an organization which was called together for the purpose of getting Dr. Sweet out of that neighborhood, and they had a meeting - - one witness says six hundred and another says seven hundred, just a short time before Dr. Sweet moved in, a month or six weeks before that, and they had other meetings besides that, and what was that about? Gentlemen, do I state it correctly when I say they all lied? And they did, every last one of them, down to the little children who were taught to lie, as I will show you gentlemen, who were taught to lie and told what to say under oath when they took this chair and told a lie. My friend over here schooled them, some of them. Now, we will see whether I can prove this before I get through.

MR. TOMS: Who are you talking about?

MR. DARROW: Oh, I pointed beyond you; Mr. Johnson.

MR. TOMS: Naturally we want to know who you mean.

MR. DARROW: I will prove it before we get through.

Men, women and children were schooled to lie on this witness stand and demonstrated it beyond any kind of question. Now, gentlemen, don't mistake me again; in the ordinary affairs of life, those people are not different from others; I know it; they come into court on an ordinary case and tell the truth; they would be good to their

neighbor, that is all right, but they are so prejudiced in this particular case which they think involves their homes that they do anything to accomplish their ends. Now, am I wrong? We will see as the argument develops.

They had a meeting of six or seven hundred and got together just after Dr. Sweet bought that house. I asked him whether anybody said anything about the colored people at that meeting. "No, no." "Was anything said about colored people when you signed this card?" Well, generally, "No." "What did you sign it for?" "For general improvement." "Did it have anything to do with keeping the district free from colored people?" A fellow will lie a certain distance; he does not like to go too far, and every single witness admitted in this way they joined, every one of them, and in that neighborhood they had a meeting so big that they had to adjourn from the auditorium of the school into the yard because Dr. Sweet had purchased a house across the street adjoining a neighborhood where he was not wanted. I don't blame them for not wanting him, I don't think there is any reason why they should not, but there is a prejudice and they are not to blame for that, and I am speaking of Dr. Sweet who had to live somewhere, and I am thinking of the Constitution which guaranteed him equal rights, and I am thinking of the law that protects him and which did not protect him; and they got up this organization in spite of the law and against the law and set as felons

for the purpose of driving him out, and I will show you that that is true, gentlemen. You listen when the court instructs you about a mob and what it is ~~to~~ to be a member of a riotous organization, because I think he will. He will tell you that they have no rights there that anybody was bound to respect if they sought to disburse them. I think I know what the law is in this case. I don't want you to take my word for it. I ask you to take the law as the court lays it down. That is what this case was.

Let me call your attention to one woman in passing. What is the name of that woman that walked up and down the street?

MR. NELSON: Mrs. Ware.

MR. DARROW: Oh, yes, Mrs. Ware; whether that is hardware or what it was -- Mrs. Ware. Counsel says she took her -- trundled her grandchildren up and down the street. That was on the 8th. She did not take them out on the 8th. Counsel says she had two of her neighbor girls walking with her, and she said she did not know either one of them. She did not see anybody around there at that time that were not strangers. I asked her this question -- now, this is what she began to say -- she said "I saw a great many people", and she pulled back and says, "policemen." I said, "Why did you start to say a great many people and then take it back and say 'policemen'?" "Well, I did see policemen." "Who were the most, people or policemen." I asked her four or five times, and she

said "people, finally. Do you know why she took it back? She took it back because practically every witness in this case that they called had been instructed to say "A few people." Do you remember the boy who came here, a sixteen year old boy or seventeen year old boy, who was standing down on the corner of Charlevoix and Garland on the next street waiting for a bus to go to his work. I asked him what he saw. He said, "When I came out I saw a great number of - - I saw a good many of - - I saw a few people." You remember him. The poor little boy wanted to state the truth and didn't dare. I asked him if he had been instructed to say "a few", and he said "Yes."

MR. TOMS: Oh, oh, oh, wait a minute.

MR. DARROW: All right, I have got it there (indicating.)

MR. NELSON: Yes, he did.

MR. DARROW: It is a little out of order, but, then, the whole case is Dwight Hubbard. I will read from page - - just a minute now until I find exactly what I wanted to read first.

MR. TOMS: He didn't say it very often, did he?

MR. DARROW: What is that?

MR. TOMS: He didn't say it very often, did he?

MR. DARROW: I only gave him a chance to say it once. I knew better than to give him too much leeway in a case like this. Now, I am reading from page 857, and this boy's name is Dwight Hubbard. "On that evening

how near were you to the corner of Garland and Charlevoix?"
 "About the middle of the block." "St. Clair and Garland?"
 "St. Clair and Garland." "Q. You were on Charlevoix?"
 "A Yes, sir." "How did you happen to be there?" Then,
 he was waiting for a truck. "Now, while you were waiting
 there, what did you see happen?" "Well, there were a great
 number of people and the officers - - I won't say a great
 number, there were a large - - there were a few people
 there and the officers." Now, what about that? That
 in the way he answered you: Now, see what he said to me.

MR. NELSON: 863, the middle of the page.

MR. DARROW: I am reading now at the bottom
 of 863. "Q. When you first started to answer the ques-
 tion - -" about the middle, Mr. Toms.

MR. TOMS: Yes, I haven't any copy, but you
 would not misread it, I am sure.

MR. DARROW: "When you first started to answer
 the question as to what you saw, you started to say you saw
 a great crowd there, didn't you?" "Yes, sir." "Then,
 you said a few people after that?" "Yes, sir." "Do you
 know how you happened to change your mind so quick?"
 "What is that?" "Do you know how you happened to change
 your mind and whittle it down so fast?" "No, sir." "You
 have been talking a good deal about it, haven't you?"
 "No, sir." "Any officer talk with you about it?" "No,
 sir." "What?" "Lieutenant Johnson if you consider
 him an officer." "Well, I didn't answer that question."

"Well, I suppose he does and I haven't any reason to think otherwise. When is the last time he talked with you?" "Why, I think it was yesterday morning." "How many times did he talk to you?" "Once." "And you kind of forgot you were to say a few people, didn't you, when you started in?" Again, a question - -

MR. TOMS: What was the answer to that question?

MR. DARROW: I am going to give it to you. There was a little controversy, Mr. Toms, the reason I stopped, then I asked the question again.

MR. TOMS: All right.

MR. DARROW: "Q. When you started to answer the question you forgot to say a few people instead of a great many?" "A. Yes, sir."

MR. TOMS: Oh, is that all there is?

MR. DARROW: That is all.

MR. TOMS: I thought it was some that you hadn't seen.

MR. DARROW: He said that he had talked to the officer, that he had changed his answer and that he forgot it when he whittled it down to "a few people." That he changed his answer because he forgot it in the first place.

Now, gentlemen, that is what has been done in this case. Here was a boy; Mrs. Ware did the same thing. There isn't any man could listen to the evidence in this case and not know that from first to last they had been told to say "a few" when the question was asked"; "a few" no matter how many there were there. Let me see, I will

get to that a little bit later.

The people bought this home, they paid their money, they waited a month to move in so the feeling in the town over the Turner incident could cool down, and they went there with their poor little belongings on the morning of the 2th day of September under police guard, gentlemen. Why? Again I ask you is there any question about what is the fact in this case? Let me see. The police department kept a tab on him for weeks as to when he was going to move, didn't they? Why? Because they were going to stop him because they thought he would do wrong? Oh, no, they kept a tab to protect him against this gang whose by-laws say they are organized to preserve law and order; seven hundred of them attending meetings, thinking "We are going to have a chance now to preserve law and order." They kept tab on him and he moved in under police protection and then what? It was along about noon, and the women in the neighborhood got busy, -- some of you might, I don't know whether you have ever tried it or not but I have seen smaller boys try it -- did you ever poke a stick into a hornet's nest? Well, you had better not; you will see them flying all over, everywhere, sometimes on you; and when these people moved their little belongings to the corner of Charlevoix and Garland amongst those people that were organized were to protect law and order, the women got busy running from neighbor to neighbor carrying the glad news, probably; at least they got

busy running from neighbor to neighbor, but I don't need to tell you what they said. Four policemen were placed on that corner that day, yet, nothing was wrong, oh, no, nothing was wrong. At three o'clock in the afternoon, there were eight - -and I am talking about the eighth, and Officer Schuknecht says there were some two hundred people around there on the night of the 8th. Be that as it may, and it may be a small part of the truth, I don't care, because they are more interested than I am, but there were enough. These eight officers were placed there from three o'clock, and some of them stayed all night until broad daylight the next morning, and the people gathered around their houses, and the night came on, and what was happening then? The men from the offices and from the factories got home to supper and they ate quick and they rushed out on the front porch, and the women - - now, I am drawing on my imagination, I am not quoting literally - - the women left their dishes unwashed, I guess.

MR. TOMS: No imagination about that.

MR. DARRON: Because they jumped out there at half past seven and all up and down the street where the lines of these noble heroics, father and mother and child, a lodger, a boarder, a tenant, and friends coming from far and near, lined up on their front porch and cast a glassy eye over towards the Sweet house and waited to see what happened.

Let me go back for a moment to the 8th. What

happened then? There were two, attractive, pretty, intelligent, cultured, colored girls who were working in a decorating place downtown and they were interested in Mrs. Sweet and Dr. Sweet in the furnishing of their new home; they had never had a home before, gentlemen, and women and possibly men are interested in a home, of course; they had never had a home before - - and they stayed there one night, afraid to go to bed, and the next night they stayed in jail, and every night since, and as long as they live they might have to spend the rest of their nights in the penitentiary. "All right, gentlemen, if you can do it, why, just go to it and do it. Those girls were afraid to go home that night. Do you believe that? Why, are they intelligent? Aren't they so far superior, and the women who testified for them, that there isn't any human being who would look at them that would not call them a superior race if they are to be judged by these witnesses in this case? Bright, intelligent, cultured, truthful, modest; they stayed there that night and they could not sleep for the crowd outside, and then when they sneaked out of their homes in the morning like somebody who had committed a crime because they were black and went and took their cars and went home, and some woman was overheard saying to a street car man that the colored people had stayed there that night but they would get them out the next night. I don't need to dwell on that night. That word was communicated to Dr. Sweet, he knew about it.

The girls, of course, called him up and told him as they should have done, and then the next night in early eve everybody gathered on the porches and they sat there and they were not talking about anything, they didn't know what they were talking about or what they were looking at; they were just sitting, or as most of them said, "setting". They were gathered on the porches all up and down the street, and when the shades began to gather and the night was coming on and it was safe for this law and order bunch to operate because it was dark, they started up towards the corner of Charlevoix and Garland, men and women - - and some say children. - - This brave bunch, in order to defend themselves from their criminal acts, they say that there was women and children. Why? There have been seven times as many men testified in this case, not counting the policemen, as women for the State; some thirty-one men, - - six times as many men as women have testified in this case, but women are not above gathering in a mob when they are protecting law and order and co-operating with the police, and, anyway, these were only colored people and they did not expect them to fight. How could they fight the supreme white race? Of course, they could not, they were black, and that is a badge of servitude upon them. They began going towards the corner grocery, and that men must have sold a million dollars worth of goods that night; pretty nearly everybody in the whole community went to the grocery and they got enough

witnesses to make a mob of itself in this case, to say nothing about policemen and those who were not witnesses; everybody going to the grocery to buy provisions. One fellow, you will remember, was going with his wife to buy provisions, and I asked him what he did with the provisions and he said after he got a ways he heard a shot fired and he wanted to follow it up a little bit for amusement. I said, "By the way, what became of your provisions?" "Well," he said, "My wife carried them home." I said, "What were they?" "Well, a bottle of milk." I said, "Was that all the provisions?" "No, I had the rest." I said, "What was that?" "A bunch of cigarettes." They were stocking up for the week end. Of course, cigarettes kind of appealed to me, but let that go. Everybody was making a bee-line for the store, and, yet, nobody was in it. Everybody was around the corners. I will talk to you specifically a little bit later as to how many were there and what the people were doing.

Now, let me talk to you generally a minute upon things that can't be disputed. When some man says there is forty and somebody says there is four thousand, and nobody counts them, that leaves some chance for dispute, doesn't it? I want to talk to you about something that is beyond dispute and let you draw a few inferences in this case, and that is not hard, either, in this case. Why were the people out on the porches? Because it was a warm evening? Oh, no. Why were they all looking, why

were they going up the street? You remember I asked some of them that, "Where were you going?" Do you remember the answer, "Curiosity." "Curiosity about what?" "Oh, about curiosity." "Had it anything to do with the fact that these colored people had moved into the corner of Charlevoix and Garland?" And almost without exception they said "Yes." I would just as soon they had said "No" because everybody knew why they were there. They were gathered together, lined up on the street, they were gathered together on the steps and the front of the houses and on the corners of the schoolhouse grounds - - and I will tell you how many after a while as near as I can - - they were gathered together, you know why. I don't need to talk to you about why. I don't need to talk to you about whether this electric light is showing. (Indicating). They were gathered together just the same as the Roman Coliseum used to be filled with a great throng of people with their eyes cast on the door where the lions would come out; they were gathered together just as in the old days a mob would assemble to see an outdoor hanging and waiting for the victim with their eyes set on the gallows; they were gathered together as people would gather to feast on a holiday or some great feast, and you know it; and they were gathered together to awe and to intimidate the poor black family which had bought the corner house and who had a right to buy it under every law of the land. That is why they were there. What did Dr. Sweet do and why did

he do it? He moved into that house, and he had a little furniture, not much; he knew all about the Turner incident, he knew all about the other incidents in Detroit, he knew the history of the race; he took his future belongings and he left his baby at its grandmother's just as a white man would do - - and there isn't so much difference in the feelings and the emotions of a white father and a white mother than there is in the feelings and emotions of a black father and a black mother; they are just the same. He shielded her; his wife, his brothers came later, and himself; and in their truck, in the little Ford truck he loaded in provisions enough to last an army through a siege. What did he do it for, gentlemen? Were you born yesterday or does the State think you were born yesterday? Why did he do it? He did it because he knew that the infinite forces of the universe had painted his face black; he did it because he knew that the white man hated him although they would let him work. That is why he did it. I don't need any argument for that, and I don't need any evidence for it, you know it. He loaded in provisions enough so that if, forsooth, he stayed the corner grocer would not sell him something, and he would not have to starve. He took something else more important; he took some guns and some ammunition and some revolvers. I don't think he should have taken revolvers; I think he should have taken siege guns in place of them. He took them for what? Because he wanted to kill somebody? You know

he took them. He took them to protect his home and himself and his wife and those around him. He took them to protect the rights of the colored man, which ought to be sacred and which would be if people had a few regards for the law and the Constitution and the human instincts which make all men kind. I deny the statement of counsel that we wish to excuse his cowardice. Coward? Oh, no, gentlemen, not a coward, but a hero. You may take him and his family and send him to prison for life, he may live there and die there, and his name will live and people will honor it and bless it wherever any human art believes in justice and freedom. Why did he take it, why did he take the ammunition? And another thing has been woven in here, "Why didn't you call the police?" I will tell you some reason why he didn't, but I will tell you one now. No man in any free country on earth is bound to call a policeman to defend his home or his life or his person or that of his friends. Under the laws of nature he has the right to stand and fight, and if he is a man he would rather die fighting than to cringe like a coward, and that is what he did. Any reason for expecting trouble? Yes. Imagine your face is black, would you have expected trouble? Why, why? He is an intelligent man, he knew the history of his race, he knew that looking back to the terrible years that have marked their history he could see his answer; loaded like sardines in a box in the mid-decks of steamers and brought forcibly from

their African homes, half of them dying in the voyage; he knew they were sold like chattels as slaves and were compelled to work without pay; he knew that families were separated when it paid the master to sell them; he knew that even after he had got liberty under the Constitution and the law he knew that the bodies of dead negroes were hanging from the limbs of trees of every state in the Union where they had been killed by the mob; he knew that in every state of the Union telegraph poles had been decorated by the bodies of negroes dangling to ropes on account of race hatred and nothing else; he knew they had been tied to stakes in free America and a fire built around living human beings until they roasted to death; he knew they had been driven from their homes in the north and in great cities and here in Detroit, and he was there not only to defend himself and his home and his friends, but to stand for the integrity and the independence of the abused race to which he belonged, and I say, gentlemen, you may send him to prison if you like, but you will only crown him as a hero who fought a brave fight against fearful odds, a fight for the right, for justice, for freedom, and his name will live and be honored when most of us are forgotten.

Do you want to adjourn for a few minutes,
Your Honor?

THE COURT: Take a recess of ten minutes.

(A short recess was taken.)

THE COURT: Under the arrangements that we have made, gentlemen of the jury, Mr. Darrow will continue his argument for one hour or an hour and 15 minutes, and then tomorrow morning we will resume promptly at nine o'clock, Mr. Darrow will argue from nine until ten, and then Mr. Tomp will take from ten o'clock until he concludes. You will be charged in the afternoon.

MR. DARROW: Now, gentlemen of the jury, let us discuss a little bit the situation down there at that corner.

It is very hard to get an unprejudiced witness here. I am not going to make that a one-sided statement, because I know what we are all made of. I know.

They had only white witnesses; no blacks. Why? As far as the real facts as to the people around there, I had only blacks, except two; two whites.

Of course, in the first place, most of the witnesses who were put on from around there were white; but in the next place, I think a fair inference is that everybody is prejudiced.

I had two whites. One of them I think meant to tell the truth. That is the newspaper man. The other one I do not think did, although he came pretty near doing it at that. That is the man from the tire shop. He evidently sought to hold back and did not want to say it all.

So it is pretty hard to get the exact facts in a

case like this. It is not easy to lay your finger on an unprejudiced witness and one who won't have a natural prejudice. So every witness you have got to examine carefully, so far as you consider him at all, whether you think you can fully trust him.

I only make that statement for this purpose. I am not saying it is a one-sided rule at all. I am just dealing in human nature as I know human nature, and I have lived with it a good many years, and all kinds of it. It is neither very good nor very bad. It is a mixture of everything. It has come down almost from eternity. You are filled with all kinds of emotions and all kinds of hates and loves and fears and passions, and you have got to take them all into consideration in arriving at the facts.

Now let me go back to that house. On the evening of September 9 there was a house in a neighborhood where perhaps there were no colored people for two blocks, maybe three, the evidence is not positive on that, which we will call a white neighborhood, - a white neighborhood that had fitted itself up prepared to receive them, and gone to the expense of getting up an organization and paying a dollar apiece cash to join, to keep out the colored, who in this instance were the superior, although they were black.

Let that pass. Other neighborhoods might have done it too. I am just telling you what it was here.

The police department for two days was around that house. So they knew; they found out when they were going to move, and they went there to protect, so they said, and probably did, more or less; and they said one of their main reasons was on account of the Turner incident which had only happened a short time before and which the police knew about and which the defendants knew about.

Gentlemen, these are intelligent defendants, from the evidence in this case. They are students, scholars, and ambitious to rise in the world. You need not think they do not know about the history of their race. They may have even an exaggerated view of it, but what of it; the more exaggerated, the more allowance to be made.

None of you people would like to go to a penitentiary. Suppose you had the option of going to a penitentiary for ten years, or being black, which would you take?

Suppose you had the option of going to a penitentiary for 15 or 20 years, or being made black overnight, what would you do?

And yet there is no reason in logic or science or broad humanity or under any religion in the world why a difference should be made on account of color, no matter what it is.

Nobody knows that as well as the black man knows that.

Those people had congregated there at the corner and around the corner and for blocks around. For what? For what do you suppose?

Let us first see who was there, and what precautions were taken. I want to discuss facts that cannot be disputed.

In the forenoon of the 9th there were four policemen stationed there, weren't there? Why four in the day time while the men were at work; and the women, while they might be vicious, they cannot throw stones and shoot very well. They can swing the language all right, but shooting and marksmanship with guns or stones is a little out of their line.

At 3 o'clock they put on eight. Different officers came there at different times that night, even up to the assistant superintendent, the big man of the police force. I will talk about him later; what a wise, vigilant and careful man he is to have entrusted to him the lives and property and liberties of a great city like Detroit. He may have some friends on this jury. I do not know and I do not care. I am going to tell you just exactly what I think and what I think the evidence proves in this case and let it go at that.

At 3 o'clock they put on eight police men and the three officers; that made 11, and then the acting superintendent or assistant superintendent, I never can get his name right or him either.

MR. TOMS: Spreat.

MR. DARPOW: Sproat. He came and looked the ground over, like a great general, to see how the battle was progressing, - excepting that he was not a great general, although this was a battle. There have been many battles fought on the fields of peace just as important as those that have been fought on the field of war.

It may be needful that many men should die and many men go to prison, and many, many more men die and many more men go to prison before a man can stand up and protect his rights, if his face is black. If so, all right. There will be brave men and brave women to take up the cross and do it.

What else happened? We will cut out the evidence here as to crowds. There were then 13 policemen on the job. At least 11 policemen were there, and I think 12, besides those that came and visited.

At 8 o'clock, the general in chief, Schupanecht, if that is his name, the inspector, sent out for more.

Now let me ask you, gentlemen, let me ask you to use a little sense. I do not ask you to use all you have got, just a little of it.

Why should he send for more? Do I need to talk about it?

Eight o'clock. People had got home from their work. The men had come. I suppose the Paul Revere of the water works improvement association had been spreading the word over the town. People had got home. The crowd was thickening.

Do you think they sent for four more at 8 o'clock when they did not need them? May you do, I don't. May be you think so. I do not think so.

They sent for four more at 8 o'clock, and they blocked traffic at the four corners.

A few people there, gentlemen, - a few! A boy says a great many, a good many. A few!

They blocked traffic at the four corners, and then when it got to be about five minutes before the shooting, they sent two policemen up on top of a building right across from Dr. Sweet's home, where he could overlook the crowd.

NO, gentlemen, are we fools? Do they think we are crazy or silly or what? Was all of this thing done for nothing? Was the valliant inspector doing all this thing because he had a brain storm? Is there any kind of question about it? Why had he congregated all those forces at those four corners in that time?

That was not all. He had reserves. He had reserves in the nearest station house that he might sent for at any minute. Some of these, the last four, came from those reserves.

But two men climbed up on the roof of the apartment house across Charlevoix, so they could look over at the crowd? At what? They say because they thought somebody might be hiding up there, did they? That made them think so, gentlemen? Why had anybody a suspicion that people were there?

Did they think the Water Works Improvement association was holding a meeting up there? Or was it because of the missiles on the roof, or because of shots, or things of that kind? It was something, wasn't it? At least, they were there, and they were sent there in connection with this mob, and nothing else.

All this happened, gentlemen, all this happened before any shooting from the house.

That was not all that happened. Where was this valiant chief who stood guard on the corner and directed the forces when there was nothing doing on the street, as he says there was not.

He says he stood on the school house corner only a few feet from the Sweet house. He said he stood there to guard the Sweet house.

If you watched the record, you will find about half a dozen policemen, all of whom said they stood on the corner. The assistant superintendent came up there and he stood on the corner, and another one -- what is the other fellow's name that stood on the corner, sat in a flivver five hours and remained to tell it?

MR. NELSON: Doran.

MR. DARROW: Yes, that fellow sitting there in a flivver five hours and then he recovered from it. They were all three there. So they said.

Schupknecht's brother-in-law dropped in at the corner too, when he was looking for his strayed boy, who had wandered off somewhere, - 13 years old, pretty well

able to take care of himself, but he thought he would give the once-over to this vicinity and see where the boy was. If he knew the boy was in the habit of going there to play ball, he did not look to see whether anybody was on the grounds or not, so he says.

Well, let that go. This is the situation after 8 o'clock. That is the situation. That is not disputed. Now let us find something else that is not disputed.

How many days was it, gentlemen, that you sat here and listened to the evidence in this case, without ever hearing of a stone being thrown? A good long while.

Did any policeman tell you? They all knew it. How many days did you sit here, and not a word came from the lips of anybody about stones? Who was the first man that told you?

The old saying that you have heard is that fools and children tell the truth. The first person was not a child. He was rather stupid or had that appearance.

He kept a billiard hall down town on Woodward avenue. Whether he blundered I do not know, but he said that he was standing there before the shooting a little up the street towards the Dove house, and he heard a glass break. That is the first man, wasn't it? And he heard what he took to be stones or some hard substance, from what he thought was the Sweet house.

That is the first information we got on that important point, and yet the policemen had been sent there to guard the property and to protect the rights of the

black, to help him move in, and to save the honor of the city; and not one of them knew it.

I did not think to ask them whether they were blind. I know they were, maybe not in the eyes, but a man may be very blind and have good eye sight.

Who are the next ones that tell it? A young boy, one of two who came from the Dove house, or next to the Dove house.

He said he saw some boys come out of the alley and throw stones and he heard them light on the Sweet house. And the next boy went him one better. He saw somebody throw stones and he heard them light and he heard windows break or a window break before the shooting. Not all three of their own witnesses, to say nothing about this wonderful man, Andrews, who my friend said was an official of the Edison company. I don't know where he gets it. I think you are wrong about that. He says he is a foreman of the construction gang. I think he meant destruction but he said construction.

Anyhow he wandered down the street and what he saw was a plenty. He saw 75 people on the east side of Garland between where he got on the street which is in the same block and the store, and that he went over across and then he came back on the Sweet side. How he got there I don't know. He must have got there, for he said so.

MR. TOMS: He did not say he went across. He did not say he went on the east side at all. He went

right on down the west side.

MR. DARROW: Well, I may be mistaken. I got it in my head that he said he went on the east side. But anyhow he spoke of the 75 on the east side. How he got down so near to the Sweet house on the west side I don't quite understand. Perhaps he did.

When he got down there near the Sweet house he heard some noise. It sounded like a boy dropping some marbles on the floor. Of course, it would not sound like a man dropping marbles on the floor. He did not remember when he ever heard any marbles drop. He thought they were pebbles. Did you ever throw a pebble across the street? These are pebbles, probably some of them, but not all of them.

Did he lie about it? Well, I know he did. I know he knew they were stones. I know that deliberately and purposely, to fool this jury and compass the ruin of these defendants, he told you something that was not true. That is what I know.

I know that he heard these missiles against this house. Talk about pebbles in that crowd!

All the way down the street he was visiting with people who were out there from curiosity the same as the rest, out there waiting for the show to begin, waiting until the victim was ready, waiting until the majesty and supremacy of the Canadian should be recognized in the city of Detroit; waiting for the sacrifice of a black family who had toiled and worked and saved and

denied themselves that they might have a home.

Let me say another thing here, gentlemen. I told you these policemen were no good, that they lied, and they evidently were in league with this glorious association to protect their kind of law and order.

Let me say something else. Just a few minutes before this shot was fired, a taxi drove up, didn't it, by the front door, and let out two colored men who went into the house, and one of their witnesses said some stones were thrown while they were going in.

Now, gentlemen, is that true? You know it is true. What do you think about that police bunch? There were around that house, one time or another, not less than 12, 13 policemen.

Policemen in front of them;
 Policemen to the right of them;
 Policemen to the left of them;
 Policemen behind them,
 Policemen everywhere --

And where else, I have forgot the rest of that?

MR. TOMS: And they all volleyed and thundered.

MR. DARPOW: Yes, volled and thundered. I had forgotten that part. Most of their volleying and thundering, though, was done on the witness chair, almost all of it.

That house was surrounded by policemen. Why, Brother Moll seemed to wonder and treated it as a great circumstance in this case, why my black client should

shoot? Why, the crowd was not anything! There was not anybody on the west side of the street.

Do I need to tell any of you gentlemen why they were not on the west side of the street? Why they were not on the north side of Charlevoix? I don't think I need to. You all know the evidence. The policemen kept them away from there.

All these witnesses who said there was nobody on the street said policemen were always pushing them along and not allowing them to stop. They must have been pushing somebody. I suppose they were pushing each other.

Let me say this about the policemen. There is not one policeman in the whole bunch, although at that time there must have been not less than three standing on that corner, there is not one in the whole bunch that ever saw that taxi come up and unload, is there?

That was five minutes before it happened. Not one saw that, did there? There is not one policeman in the whole bunch that ever heard a stone thrown, was there? And they were standing there looking. Not one, except Schupknecht, and that was after he went up on the porch himself, after it was all over with. There is not one policeman in the whole bunch that ever knew that window pane was broken, and yet stones went through at least twice, but not one of them knew it.

What is stronger than this, gentlemen? I want to ask you gentlemen to consider it in the light of your

judgment and your common sense and be fair to these defendants.

For two nights this crowd was around the house. I don't care whether it was big or little, it was there, it was menacing Sweet and his brood and his home. It was there, it was growing larger as the night fell on the 9th. It was growing larger every minute up to the time of this fatal shooting. Policemen were on the corner, driving the people back, keeping them away, and not letting them stop, for two nights and a good part of two days, and all night of the 8th,

Doing what? Dispersing a mob. Is there one policeman in this crowd, is there one in the whole bunch that ever stepped up to any man and asked him his business, and why he was there and told him to go away? One?

These policemen knew nobody that was there. They had nobody's name. Two days and two nights on that job, defending a helpless colored family, or one they supposed was helpless. I am thankful they were not. But defending what seemed to be a helpless colored family in the rights that every citizen has who lives under this flag, regardless of color.

They were there two days and two nights in that business, with that crowd gathering around there, and they never went to one or asked a single one their business, or ordered a single one to disperse, not once.

Now let me ask you this, gentlemen. I know the answer and so do you?

Suppose that crowd outside had had black faces. Do you think they would have stayed there two days and two nights, or two hours, or two minutes, or two seconds?

Wouldn't Schucknecht have been on the job and all of his cohorts to say nothing of that glorious organization for the defense of law and order known as the Water Works Improvement Association?

Do you suppose that three black men could have gathered on that corner and have stayed for one hour and all those policemen there or somebody not asked them their business, and if they did not have any, tell them to beat it? You know it, gentlemen. You know it.

Every policeman knew that that crowd was after the Negroes, every one of them. They knew they had menaced that place for 40 hours at least. They knew they had stoned it, had broken the glass, and they knew that they gathered there for that purpose, and not one batted an eye.

Did they do their duty? Ah, let me tell you, gentlemen, Breiner was not an innocent man, but if he had been innocent his blood is on the head of the police department that was around there, that part of it, who should have dispersed Breiner and sent him on his way.

I am sick of this talk about an innocent man being killed. There were no innocent men in that bunch, not one.

The evidence in this case shows that he was several doors from his home, that he twice went up and down

that street, that he had been lingering around there for some time. ... and he says why was he there? Only an inference. He was there just the same as everybody else in this mob was there. He was there to uphold law and order as stated out by the Water Works Improvement Association. That is the evidence in this case. It makes me sick.

A man standing there in a mob bent on crime; the court will tell you that, in a mob, which was a criminal organization, waiting to see the sacrifice of some helpless blacks.

And then they say he was innocent. Nobody was innocent; nobody could be innocent. They came there for that purpose with malice in their heart, with enmity to their fellows, determined to drive them out.

The evidence is so plain that there is not any human being that can doubt it, and if you gentlemen see fit to convict these defendants, you will do it anyhow.

You know it is true. You know the purpose of this crowd. It was a disorderly crowd. No, peaceable, quiet! They might have been holding a prayer meeting, except they were not! They were throwing stones, they were breaking windows, any ... They were there with a show of numbers and force, and they were there for that purpose, which every one of you gentlemen knows, and if you will find this defendant guilty or any of them, I say, gentlemen, you still know the facts, because they were doing what you would do and

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you and you and you.

Gentlemen, let me ask you to be honest with us and be honest in this case, and that is all I ask.

Suppose one of you had a home with a little family, and outside was a menacing crowd of black people that wanted to drive you out, as you know they wanted to drive these people out. Would you have waited as long as they did? No, you would not, gentlemen. You have not been taught to wait. You have been taught to act.

These were members of a race which for centuries has been taught to trust and to submit and to forego and never defend itself.

You would not have done it, not one member of this jury would have done it. You would have fought your way out, no matter what the consequences might have been, and you would not have called for a policeman to help you in your rights. You would have said you were a free-born citizen and you would help yourself.

And yet they call this illegal means. Illegal? If a man threatens my life or my home, is it illegal to be my own policeman and my own judge and my own executioner and defend myself?

Shame on any such doctrine! No nation of free men can be built up of people who will not defend themselves and defend their rights.

Patrick Henry was right when he said "Eternal vigilance is the price of liberty." The man who does not strive for it and work for it and fight for it will be a

slave, and that is all there is to that.

I need call no policeman. If I am right, if another man is the aggressor, I can stand up and defend myself with such implements as nature gave me and with such other tools as I can procure for myself.

The other doctrine is the doctrine of slavery which cannot be defended in any free country.

Now let us go further with this thing that happened. Gentlemen, there is not one of you who does not know perfectly well that that crowd could have been dispersed immediately. There is not one of you who has not got the word of every policeman who has testified that he never raised his hand and never asked a single question of any man in that crowd. Is there?

There is not one of you who does not know that the policeman said they did not individually know any of them.

They knew they were there, they knew why they were there, and they took no steps to protect the property or the persons of the men and the women in that house.

Now there can be no question about that. Are they to blame? And when this terrible act occurred, and they were in danger, then they came together to defend themselves and testify for themselves.

Now how many were there? Let us see about that. There are no two witnesses called by the state who tell the same story, except most of them start in by saying a few, and when they are cross examined they admit more and

more.

Andrew said there were about 75 men lined along the street north of the store or north of Charlevoix on the east side.

Dove said there were about 15 in front of his house.--They said there were none.--You might get me that Dove testimony. (Addressing Mr. Nelson)-- in front of his house and on his porch, and he was not present, none of them were.

The crowd stretched down to St. Clair street. Let me see about St. Clair street now, and their wonderful discovery that we had a witness that made any mistakes.

I have heard a great many witnesses in court in my time. I never listened to a witness who impressed me as knowing more what he was talking about and being more open and frank in his answers than Smith. Every question asked by the state he answered that quick. Did he answer all of them correctly? Probably not.

You are intelligent men. You would have hard work to relate the events that occurred three months ago and not make a mistake, especially if it involved riding in a machine and what street you were on.

We called him for two purposes. First, to show that before this shooting the crowd reached back to St. Clair, a block, and, second, to show that they were hostile to the blacks. I did not need to show you the one, but that is what we called him for.

Now we proved that they were assaulted and proved that that assault was before the shooting. I called the Smiths, three of them. Now, gentlemen, you heard their stories. I submit there is not the slightest reason on earth for any of you to doubt that an assault took place just exactly as they said.

Did it have all the appearances of honesty? I will brace it up with you in a few minutes, but just take it alone. Every question was answered and it was answered direct, and they were there, they were in the crowd, they were mobbed by a mob who hollered, "Kill them, shoot them," and they threw stones into their machine.

How is it disputed? Why, because they said, one of them, that they saw a clock on a bank in the roof that they said was on — what is the name of that street?

MR. TOMS: Kercheval.

MR. DARROW: Kercheval, yes. If I live here much longer, I will know all your streets. I know Charlevoix and Garland now.

They said it was Kercheval, and then they sent the sleuth out here, and he could not find a clock on Kercheval.

Well, that does not necessarily prove they were not there. If they sent Schupksicht to look for a cathedral he could not have found it if it was in the middle of a street. But there was not any clock on Kercheval, and we sent Smith back, and he found his clock all right on the bank, one street over, on Charlevoix. Now what of it,

gentlemen?

MR. TOMS: What?

MR. DARROW: Or is it two streets? Oh, I don't care where it was, east or west. He was out on Charlevoix instead of Kercheval. Suppose it was three, four or five blocks. It was near enough. The time had been all right. We did not need the time anyway, because there is plenty of other witnesses to prove it. What is important in this case is to know whether it was before or after the shooting.

I don't care to waste time on this. I suppose some of you have machines, at least Fords, and drive around some. Whether you made a mistake three months ago, whether you went on one street or another, is perfectly common, and you might not know, especially as I have found in Detroit, you might not know. This is a very liberal city.

Well, he found the clock and he found the bank and there it is.

Now what of it? Why, they say he must be a liar, because he says he got down town at half past nine, and he looked at a clock in an hotel about 9.30, and he stuck to the story. I could not pry him loose, he could not pry him loose. I could not pry him loose, although I tried harder to pry him loose than you did, but I could not do it. He just stuck to it, like your gasoline man that you could not pry off the street corner where he thought he was when he was not.

This thing happens to all of us. I got one

witness in this case -- it is not this one -- that I would trade for one of your poor ones.

MR. TOMS: Even?

MR. DARROW: Yes, I would rather take one of yours than two.

Now this thing happened. Of course, Smith got twisted on the clock or the time. He may have seen it when he got there, he may have seen it an hour after he got there, or he may not have seen it at all. You know how those things are.

Let me give you a little instance. There was one man called by the state who seemed especially-- well, attractive, I will say. It is very rarely that I remember names where there are so many come all at once, even if it is a lady.

MR. TOMS: Even if she is attractive.

MR. DARROW: But that was Mrs. Dove, and I do remember she was a kind of symphony in brown, I remember. I notice the clothes; whether the hair is bobbed, I used to, I don't know, I take it for granted.

She said she did up the dishes. I do not doubt she is telling the truth, and that she was. She did up the dishes and got out on the porch at half past seven, and she sat there 15 minutes and then heard the shooting.

Well, now, of course, that is not true. It does not mean she lied about it. She got it twisted.

What else did she say? She sat right there on the porch where she could reach Breiner, but she did not

see him at all; in the early part of the evening she did not know he was killed or shot.

Those things happen. Put all of you on the stand and something like that would be bound to happen. It does not mean necessarily that they lied. Do you think those fellows were there?

Let me call your attention to something else, and you will then see whether they were there or not.

I called them, as I say, for two purposes. One was to show that the crowd stopped over,--My friend here does not understand that word, but I know some of you fellows will -- on to St. Clair street, in order to show their enmity to the colored people.

I called on the witness stand Mr. and Mrs. Spaulding. They passed by there about the same time. I fancy you remember Mrs. Spaulding. Mrs. Spaulding is a white woman with colored blood in her, some.

You know I could talk to you a long time about this question of black and white. It is funny. If you can trace out a drop of colored blood, why, you are colored.

Oh, you don't have to be logical. If we had to, we could not live, because we could not, but she is white. There is not so much to it anyway, but still they think so. They may have to let it go that way.

She is white. She has every appearance of being white, and pretty much of her blood is white.

That is a queer thing about this business. This

noble race that I belong to says that if there is a single drop of colored blood in you, you are not Nordic.

But if now and then you find a Negro who has written some wonderful story, or who has excelled on the stage, who has made a name for himself, or accomplished great achievements, and there have been many, many of them and getting more every day, then this same man, white man, will say, "Is he a full blooded Negro?"

"No, he has got an eighth white blood?"

"Well, that is how he came to be so smart."

Why, I have known people with white blood that were plumb idiots; the more they had of it, the more idiotic they were.

There is nothing in it. What are you going to do about it? People think so, it is true.

I never in my life discussed with one of these fanatics and pointed them to some great man like Toussaint L'Ouverture, one of the greatest statesmen the world ever saw, or Pushkin, the great Russian poet, Booker Washington, or my friend, Mr. White, who is the peer of any man in this court room, who testified in this witness stand, or Jack Johnson, I may have him too, -- I never spoke about one of those to one of these white fans that does not immediately say, "Hasn't he got some white blood in him?"

If he has, of course he would be smart. One quart of white blood in him would settle it forever, and all of his intelligence is due to that white blood.

Well, we cannot get over it, I suppose. If the

world ever got over its prejudice,-- I have been talking about it for forty years, we would have been cured long ago if it were possible, but here it is, the same thing again.

MR. TOMS: Then you would not have anything to talk about, if it got over it.

MR. DARROW: No, nothing to talk about. I would have died from boredom.

Now to get back to Mrs. Spaulding. I hope you people can visualize, of course, I meant to pass her off her as a white woman, but I meant to tell you afterwards, just as I wanted to pass off my friend Walter White as a white man and then tell you no, he is not the real thing, he has a drop of colored blood in him. I guess that is where he gets his genius, I don't know.

But anyway Mrs. Spaulding is a social worker, a woman of intelligence, cultured, a music teacher, a beautiful woman. I call her husband as attractive as she is.

Now do you remember Spaulding? He is one of the finest looking fellows I ever saw in my life. He is as good looking as Mr. Toms or me. He has got the most regular features. He is a little dark for some tastes. Of course, he is not as dark as mahogany. We all like mahogany for furniture but not for people. We are not used to mahogany people, we are just used to mahogany furniture, some of us. Beautiful regular features, keen intelligence.

Let me just refer to that man for a minute to show what comes of this course of prejudice.

There was not a man on this witness stand that made a better impression than he did. I hope you can pick him out. He had a good education in the East and went to Ann Arbor and took a course in the engineering department, and then came to Detroit and worked as a letter carrier, gentlemen, just a letter carrier. If he had been white, he might have been one of the greatest engineers that this country ever produced, but his face is black, and he carried letters from door to door, delivering mail to white people who could not compare with him in looks and intelligence and plain and evident character.

You have seen people in this court room, you have seen them at this trial, you have met them in your life, have every reason to respect them, to love them, to appreciate them, except that maybe one of their ancestors going back and back and back to where perhaps they had ten thousand ancestors, and one of them was black or partly black, and he has to be a hewer of wood and drawer of water and all of his generation, to the end of time to be cursed that way by those who think their blood is pure.

Of course, the marvel of it is that there is not any such thing as pure blood.

How far can you go back in yours, how far can I go back in mine? I knew who my father was and who my mother was, and I know who all four of my grandparents were, but when I get back of that I am lost in obscurity and night. I know they came from New England. I hate to admit it, but they did, - pure Nordic.

MR. TOMS: New England Nordic?

MR. DARROW: New England Nordic. Isn't it awful? I know it. I had to bear it and get along with it the best I could for all these years. For all I know they may have been related to Johnathan Edwards. From there they go back to England, but what of it? Gentlemen, I don't know where they came from back of that or that far, and I know that back of me and back of you is an infinite ancestry stretching away back at least five hundred thousand years, and we are made up of everything on the face of the earth, of all kinds and colors and degrees of civilization, and out of that come we.

Who are we, any of us, to be boastful above our fellows?

When I look at a man like Spaulding, a woman like Mrs. Spaulding, and a man very much their inferior like Johnson, who says I would not go where I was not wanted,-- I don't know where a detective is wanted,-- "I would not go where I was not wanted; you brought this thing upon yourself," then I feel sad, gentlemen, when I think of the injustice of man. I do not know what you can do for it. I wish I did. I would do it, if it was not too expensive.

Now to get back to the case. Excuse me for wandering around. I got to quit after a while. I am talking against time. But let me tell you this.

Mr. and Mrs. Spaulding drove down Charlevoix. When they got down to that street, St. Clair, they found a

large crowd of people, hard to get through.

They will say, why didn't they mob them, because they were colored? All kinds of reasons. She did not look it. He looked like he was a gentleman, although he was not, because he was black, he looked like he might be. They might never had had the chance and he went straight ahead. It was doubtless before that time because as I recall it police officers had been placed to divert traffic. They came right past the corner.

Mr. Spaulding said upon the right hand side around that school house and upon the south side of Charlevoix she would estimate the number of people at something like four or five hundred, 400 I think, and she did not look north. The driver, Spaulding, looked out to the north, and he said on that same side, the north side, there were at least 150 gathered around there.

I take their word, and it does not stand alone in this case, but I take their word against every police man and every member of this uplift organization engaged in supporting law and order and driving colored people from their homes, if there was not anything else in this case. But there is. I will corroborate that by a witness that is not worth anything, as they tell you.

Now I think this witness got mixed, Mr. Toms.

MR. TOMS: Which one is that? Yours or mine?

MR. DARROW: Yours this time. This is a fellow that Mr. Rockefeller worked for, that sells gasoline at the corner. What was the name anyway?

MR. TOMS: Greenlade Oil Company.

MR. DARROW: Green Goods Oil Company. Now see if you can get your mind on it. He could not get his mind on his, for he did not have any, he could not help that. That is one reason I got the truth out of him.

You remember how hard they had to work to get him on the right side of the street, and he did not get on the right side after all. He was stubborn, wilful, and malicious, and I said, oh, let us admit he is on the right side.

THE COURT: Mr. Darrow, close within five minutes.

MR. DARROW: I will, your honor.

THE COURT: For tonight.

MR. DARROW: For tonight, yes. They called this fellow in rebuttal to prove there was nobody on that corner. What did he say? Why, he came down there to work at half past five in the evening. He is a thrifty duck. He is holding two jobs. He works all day for one company and then all night for the other, and he only slept at the time they might need him for a witness.

They called him and what did he say? They never did get him on the right corner. But he said this. Of course, he thought these other fellows were cross examining him and that he was really my witness, so I led him along and got him to say what I wanted him to say. That is the way I figured this thing out, and he told me. I said, when did you hear about that crowd? Well, I heard

about it -- I got to work at half past five in the afternoon on my second job, I had not had any sleep though.

Got to work on his second job at half past five, had been there a little while and some man asked me what all this crowd was about, and I said I did not know.

Well, then, when somebody else came along and asked him, he said I heard a colored family moved down on the corner. Now this is early in the evening, a block away, and their witness; ignorant, and therefore honest, simple.

They call him to prove there was not anybody there. They began coming there early in the evening and more kept coming. He did not say how many. They did not dare to ask him, and I did not. I would have been glad to have them. They would have worried so much if I had, but there were a good many people there, more than he ever saw before, a block away, beginning around six o'clock, perhaps, soon after he got there, he did not know how many, he did not count them, he did not look, he was busy filling his tanks and taking the change.

But, gentlemen, here is this man, a block away, called by them for their witness, who said that at that point a crowd began gathering shortly after half past five.

Gentlemen, why were they coming? You know why they were there. They were there to awe, to intimidate, to scare away, to stone, to drive by force, if necessary, a man from a home that was his.

They were a mob in the meaning of the law of this state and the common law of England and the law of every state in the union, and a mob is a criminal organization.

And why? Because one man alone may be comparatively harmless, but when a crowd comes together, they catch one thing from one another, and no one can tell the mischief in the end.

So the common law said that where three men came together for any unlawful purpose in a mob, - the statute of Michigan says 30, but either one is true here, - it was a mob.

Let me tell you just a minute about the dangers of a mob, then I will close for tonight. It won't take me long tomorrow. It is not what they do. It is what they might do. You gentlemen know the danger. One man might not bother about driving a Negro out of his home, but get 100, 50, 1000, one man gathers from another, and mob psychology is the most dreadful psychology that man has to contend with.

It is like starting a prairie fire, this gathering of a mob. Somebody comes along and throws a match into the dry stubble, and it spreads and spreads and spreads and the winds fan it, and the flame makes the wind, and finally the two together, spreading and spreading, will pass all obstacles and devour everything in its way.

You have read of forest fires in Michigan. Somebody will start a fire burning in the woods. It catches the leaves, it reaches the branches, it travels from tree

to tree, it is blown perhaps miles away upon a current of winds that it created itself, until it destroys forests, destroys cities, towns, hamlets, and brings destruction in its path.

And so the law has always provided in every civilized community that an assemblage of people, even of small numbers, for an evil purpose, with an illegal purpose, may use some threats or some force, like the throwing of stones or the breaking of glass, -- that a mob of this sort is a criminal organization.

Before you know it, if it is not quenched, if the power of the state is not placed upon it, it has spread from neighbor to neighbor, it draws into its grasp the wicked and even the innocent; it draws into its grasp the evil and the good, until by mob psychology it sweeps all before it and destroys life and property and liberty, because each gathers force from the other until the power is irresistible.

THE COURT: We will adjourn now.

(Adjournment.)

within... he does... character... he is... called... going... 221

Wednesday, November 25, 1935

9:20 A.M.

CLOSING ARGUMENT OF CLARENCE S. DARROW, ESQ.

MR. DARROW:

Gentlemen of the Jury, there are only a few things I want to refer to this morning, and then I shall leave this case with you as far as I am concerned.

I have talked to you about who was around that house, and how many. There is no way to harmonize the testimony in this case excepting that some people deliberately tried to deceive this jury. I think you know it! You know who they were, and you know about what was there.

Mr. Adler, the reporter, told you how he had to elbow his way down through that crowd. He said that he came down from the north along Garland Street, and the people up at the north seemed to be a crowd of neighbors sitting on their porches and standing on the street. As he came down towards Charlevoix, and on Charlevoix, the character of the crowd changed very much. It seemed to be a determined crowd, bent on something.

Now, what kind of a crowd was it? It has been called neighborly. It was a neighborliness that has been going on here and other places by the whites against the blacks who settle where they do not want them. It was the

kind of neighbors that invaded Dr. Turner's home. It was the kind of neighbors, and there are enough of them in every community, both north and south, to bring danger, disaster and scandal upon a city. A neighborly crowd! Would you have thought it was neighborly had it been you? Is there any question under the evidence in this case who they were and why they were there? Is there any question of their hatred and malice against these people because they were black, and that they were there to drive them out? And now they are here to send them to prison and get rid of them. It is the same crowd who were there with all their hatred of these defendants on the night of this terrible clamor that have come upon this witness stand with the same malice and the same hatred and the same design to testify to swear away their lives. The same neighborly crowd, full of hate and malice and bitterness against a race.

I want to refer for a few minutes to the last short period which covered this tragedy. I have said that a man has a right to defend his home. I have said he has a right to defend himself, to defend his family and defend his friends, and there can be no question about it. The Court, I think, will tell you so. All I ask you in this case, so far as the law is concerned, is to take it from the Court. I do not know what he will tell you, but I think I know what the law is, and I think he will cover the law. You know what the facts are. All you need to

do is to apply the facts as you know them to be to the law as he gives it.

Let us see what happened. Here were eleven people penned up in this house, some of them had been there for two days, others for just a few minutes. You have got eleven here, because there were eleven blacks there - no other reason. There were eleven black people in the house, and there are eleven defendants in this case, looking to this jury for justice.

Men may defend themselves to the extent of killing, and they may defend their persons, their homes, their families, and their friends. They may do more than that. Men under circumstances may act upon the appearances as they seem to him.

Let me ask you gentlemen to put yourselves in the places of Dr. Sweet and his comrades, when you decide this case, and not sitting here months after the event in a quiet court room, without any danger and any prejudice against you. Put yourselves in that house on the corner, with a black skin and a white mob in front of you, that had been there for one purpose for two days and two nights.

The policemen, to say the least, were utterly inefficient. Mr. Sprott, for instance, came there for 15 or 20 minutes and stood upon the corner, just before this thing happened, and said there was not anybody on that corner, and there was not anybody on the street. The only people there were a few who sat upon the steps of that apartment building. He said nobody was on the school cor-

ner, nobody on Garland, nobody on Charlevoix, But he came down there to see it. Did he see it? Did he lie about it? Or was he blind? When he came there to see, why didn't he see what Adler saw. There isn't any sort of question in this case but what he is protecting himself and his department, when he gave that testimony upon this witness stand, not a particle.

These people were in that house. They waited through the first night without sleep. They stayed around there through the next day. One little piece of evidence that dropped into this case, that you can well consider, is that one policeman said along in the afternoon of the second day one of these black men came out and walked back and forth for a few minutes in front of the house. What is that for, do you know? What of it? Men panned up in hot weather for 24 hours, and one of them came and walked back and forth in front of the house. What did this witness mean? Why, he meant this, that a black man should have known the character of the people around there, and that when he showed his black face, he invited a mob - - and that, in the city of Detroit, gentlemen, that sixty years after the Emancipation Proclamation - that he was to blame because he walked the streets of Detroit in front of his own home for ten or fifteen minutes. If the policeman's statement, and his inferences are true, then let me ask you who were responsible for this deed? Only the men and the women who determined in whatever event these people should not live there.

Now, they came around that house. The house was kept dark. They did not want to commit suicide. You know why. What is the use of talking about it? It was kept dark, not to expose themselves, and not to taunt the mob. When the evening came around, the crowd grew thicker. First they sent for more policemen, besides some officers, and they sent for four people to block off the streets, and then they sent two policemen on the house to overlook it, and the stones came.

Now, what about those stones, gentlemen? My clients say that they rained on the roof. Were there any, and how many? We have offered in evidence some 25, ten, as I recall it, taken from that little sloping roof in front of the dormer window, and I will guarantee that you can throw one hundred up on that roof before one will ever land - they roll off. They were on a sloping roof, that part in front of the dormer window, sloping less than the house - I do not remember the exact slope, do you, Mr. Toms?

MR. TOMS: No, but it is on the diagram.

MR. DARROW: I know it is.

MR. TOMS: 3.8 degrees.

MR. DARROW: It is a sloping roof, and it is perfectly plain that it would be almost a miracle if any stayed, and yet, according to the testimony, there was some ten found there the next day.

MR. TOMS: Not on the roof. You are mistaken.

MR. DARROW: Am I mistaken?

MR. TOMS: Yes.

MR. DARRON: How many were there?

MR. TOUS: Five on the roof.

MR. DARRON: Then there were five found on that roof. How many were thrown there to leave five? You can guess on it. You know. Upon the rest of the roof it would be impossible for any stone but a flat stone to stay for a minute, impossible. Most of these stones were picked up in the yard around the house.

Now, let me ask you gentlemen how far you could trust the policemen to bring, to gather the next morning, all the stones that were thrown that night. From the evidence in this case you know perfectly well that they would conceal the evidence instead of producing it. You know perfectly well that every person in that neighborhood would carry away the evidence before morning, and that these stones, many as they are, and plain as they are, were but a fraction of the stones that rained on that roof on that night, take it as they produce it.

They stayed there, they went upstairs and downstairs, Dr. Sweet going from one place to another. I do not need to describe his movements, I have not got the time. Just before it, they looked out and saw this gathering, threatening mob, saw the policemen apparently seeking to keep them back, and Dr. Sweet went up and lay down upon the bed, looked out the window, where he had his gun, and he said, to soothe his nerves. Counsel said he soothed his nerves with his gun. Well, if I had been in his place, I could have soothed them better with a

cannon. It was no place for a black man at that time, and even a pistol would have some soothing effect, if it might save his life. You put yourselves there, gentlemen, that is all I ask you, put yourselves there, with the history of your race back of you, with the stories of assaults and lynchings, and destroying homes back of you, put yourselves there, with the injustice that has been inflicted upon blacks for all of these centuries, and which is pursuing them still; put yourselves there and outside this white mob. They waited all the first night, and all the second night, they waited while the stones came down on the roof. They waited until a glass was broken, and somebody shot, and somebody else shot.

Now, how long would they wait? Counsel finds fault because they did not wait until they got onto his porch, probably until they were up at the door, probably until a crowd like this, like the pent-up waters breaking through a dam, could not be stopped, probably until they had a rope around their necks - well, how long would you wait, gentlemen? How long would you wait if you were white and they were black. A minute, maybe on the first night, and that is all. Would you wait until the house fell down above you, as did Turner? And then sign a document, outraging the rights of an American citizen - would you wait longer than these people waited?

Well, gentlemen, you cannot judge this case nicely and fairly sitting here in this jury box. There have been a number of cases tried in the Admiralty Courts

in this country where men were ship-wrecked out at sea, floating on the waves in a life boat, where there were too many human beings on board to make it safe, where some of them had thrown others into the sea that they might save their own lives; and juries have been asked to say whether they were justified or whether they should have waited, and juries thousands of miles away from a sea, in the quiet of a court room deliberating upon how long those men should have waited in the boats. Why, they could not tell. To decide that case you must be in a frail boat, out in mid-ocean with the sea running high, and the white caps all about you, and death imminent, and your boat going down, then you could ask yourself how long would you wait?

You gentlemen, and I am confident that you want to be fair, you gentlemen cannot decide this question in cool deliberation as you sit here. You must imagine yourselves in the position of these eleven over here, with their skins, with the hatred, with the infinite wrongs they have suffered on account of their skin, with the hazards they take every day they live, with the insults that are heaped around them, with the crowd outside, with the knowledge of what that crowd meant, and then ask the question of whether they waited too long or stopped too quick.

There is only one answer, and the court will tell you gentlemen that you should judge, - that they had

a right to judge from appearances, and in deciding that, you must consider every fact and circumstance which surrounded them, and you can do it in no other way, and I am not going to discuss who shot, or what bullet killed Briener. I will say this that there are four bullets there, every one of them that was taken out from the house or the tree around where Briener stood, and the nose of every one of them showed distinctly that they were slanting. In a soft nosed bullet you could not shoot from that angle without its being betrayed in the shape of the bullet afterwards. I think it would have been impossible for one to stand where Dr. Sweet stood and have killed Briener as they say. But, I don't care, I don't care. If the facts and circumstances in this case, the great big broad facts that cover it from the beginning to the end, if those are not enough to save the liberties of these black people, then they cannot be saved, that is all. Then it must go down in the mob psychology which permeates crowds, through prejudice and feeling, and enters the jury box, together with all the rest. You know and I know that if the case were reversed, no white jury in the land would hesitate a moment, you know that and I know that. A life is so dear to each human being that he never weighs nicely, and he cannot weigh carefully when the danger comes; he acts to save himself and to save those who are dear to him. These defendants acted in that way.

They say that my clients lied to Mr. Johnson. Well, who would not? Would anyone on earth consider any obligation to tell him the truth? I am not going to argue that in a little way, but I want to take it broadly and then I will ask you what you must think about it.

Why were these men taken to the police station and held there from 10:15 at night through all the night long, and questioned by a lawyer, aided by a policeman?

You know why! You know why! It was to get something out of them, to put them in a position where they would give evidence against themselves, nothing else. You people are not so green. It was just what they say is always done.

Johnson said that they might protect them if they were innocent. What does he take us for? If I had a sheep ranch out on the plains of Montana, where coyotes and wolves were thick around it, and I wanted to protect the sheep from the coyotes and wolves, I would probably get a wolf to take the job of protecting them, and I would go on about my business. If I had a man, innocent or guilty, with a black face, and I wanted him protected in every right he had under the laws and the constitution, I would get Johnson to look after him. Wouldn't you?

Why, gentlemen of the jury, they were there to be sweated, and they were sweated, they were there to cross-questioned, and asked to manufacture evidence against themselves, and they were denied counsel, weren't they?

What does Johnson say? He did not hear them ask for counsel, but he would not give it to them anyway. A lawyer came and knocked on the door, but he could not get in.

I do not care what they said. Young Sweet is reported as making two statements, one right after the other, one in which he said he shot at the crowd, and the other which is detailed, and many questions asked, where he says he shot over them. He first shot clear above them, and the next from a foot to two feet above them, and that where he shot was between the store and the first house. Now, I don't care, gentlemen. Counsel who opened this case said that they did not know who shot this bullet, and they do not. You could only find them guilty on the theory that there is a conspiracy, and it must be found as is charged in this bill of particulars, which is, a conspiracy to shoot to kill without any cause, that they brought the guns there for it, and they kept them there for that, and they were there for that.

You know, gentlemen, why those guns were there, you know why they were there. They were taken there to protect the home, the family, the persons, and they were there two days before they were ever used, and they were only used when the house was assaulted, when the stones were raining on the roof, and the windows were broken, and these black men, with a black man's life behind them, waited as long as these poor people did, who were penned up like rats in a hole, they waited

before they shot. And, gentlemen, any human being, any person who has the instincts of a man, if he can overcome prejudice in this case, would say that these people did just as you would do yourselves.

Let me repeat, that no white jury would ever for a moment consider convicting any white man if this case were reversed, and you know it, gentlemen.

Gentlemen, I want to close just as I began. There is just one thing I am anxious about in this case, and I know you will do the best you can, that is, that you shall approach this subject free from prejudice. You owe it, gentlemen, to these eleven defendants, whose fates you have in your hands, and there is no human responsibility greater than yours.

This is the only tribunal known under our law that can take away the liberty or the life of a human being lawfully, excepting while acting in self defense. This is the only tribunal that can pass on the acts of men and set them free, or condemn them to imprisonment or death.

Gentlemen, you have got the power to judge. No man has the capacity to judge - you must rid yourselves of prejudice, and you must be almost omnipotent and omniscient, to understand the other man, but you must judge, and if their liberties go, it is the jury who is responsible for it, nobody else.

I might say a little more about the colored and the white man here. I would hate to come to this

city and by any word of mine, spoken either carefully or thoughtlessly, add to the danger and the troubles, and the sorrow which attend these race conflicts. Ask yourselves the question, gentlemen, if you could settle it as you wanted to, not this case, but this infinitely troublesome problem that is back of it, how would you do it? How would you do it? If I were asked the question as to how I would do it, I could not answer it. I know that trouble and sorrow are incident to human life. I know it cannot be avoided. I know that many of our deepest problems are worked out in the sorest travail of body and of mind. I know that nature takes time, infinite time, and the adjustment of races, the adjustment of religions, and the understandings of human being by each other is the question of infinite time. I see no way that we can help it, but how will we temporize with it? There are people in the south, and there are people in the north who say this, that the black man should be taught that he is inferior, and he should be controlled ^{by} and he should obey the white, and that that is the only solution. There are others who say they should recognize each other's rights, and with mutual understanding and forbearance try to live together.

Now, gentlemen, I am not going to convert you, or seek to convert you. I cannot do it, at least in the few minutes that are left me. How would you do it?

Do you think that these people, simply because their color is black, are to be forever kept as slaves

of the white? Do you think that all the rights which you claim for yourselves are to be denied them? Do you think they should be like the beasts of the field who can do no better than to obey the white man's demands? Who are we anyhow? What is this white race that arrogates all of that authority to itself, what is it? Is it wisdom? Is it knowledge? Is it tolerance? Is it understanding? Or, is it pure conceit and force? What is it? Yet when you look abroad, both north and south, you find many men who say it, that they must be made, with law or without, to keep their place, and their place is the foot-stool for the white man's feet.

Well, now, gentlemen of the jury, let us not argue about it. I do not believe it. I do not believe that it is an intellectual process, and what is more important, I cannot believe it is an emotional process. I cannot look upon a black face without feeling sympathy, which, for me, at least, goes out to the west. Somehow, my machine is so made, that I can look at their side, and I trust you can too.

Let me say this, though, you have seen these colored people, some who are colored and some who are not, do you think you are going to conquer them? Oh, no, gentlemen. Do you think that the white man has got the power and the strength to make them slaves again, slaves when the law says they are free? Oh, no. There are colored people of intellect, and colored people

of course, and colored people who risk their fortunes and their lives for their independence. They are reaching all grades of society, they are coming into every city. Do you think they will stay? You cannot get rid of them, gentlemen, they are here. The terrible thing about it is that we brought them here, didn't we? Do you suppose there is any chance of changing them? Not a chance. Are you going to take their toll, as the whites have always taken it, and give them no rights? You cannot do that either. If so, you had better buy them and sell them again, and that cannot be done. What is to be done, and what will be done here, and what will you do, to say that in one case at least you have recognized their rights, or you have denied them their rights. I will tell you what will be done, gentlemen. It will be worked out on the lines it is working out now, it will be worked out by a gradual recognition of the white of the intelligence of the enterprise of the cultured colored men until that prejudice has disappeared. If under the law it is thought wise to try segregation, that might be done, but we will never accomplish anything in this world until the law that protects them and protects you alike, is enforced, and until they can invoke it. You cannot destroy it if you would, and these blind people who say they must be forever slaves, cannot turn back the wheels of progress. The world moves in

spite of them, moves slowly, but it is forever grinding, and it grinds down injustice and wrong and prejudice and hate, even though it is by the slow and cruel process of years.

Gentlemen, I have talked about this case perhaps longer than I should, and possibly longer than you have wished. I have not meant to argue anything small or to argue in a pickayunish way. To me it is not a criminal case. To me it is a cross-section of human history. To me it is more than that. It is a study in human emotions. It is a study of the eternal problems that have ever beset the race, which involve prejudice, hatred and wrong. It is a study of the country's method of human adjustment. It is a question that involves not wholly what will happen to these men, but more than that it involves the future and the hope of some of us that the future may be better than the past. It is a study, gentlemen, in life, and very few jurors have ever been called upon to pass on as important a case as this. You should not do it, and you will not do it without considering what it means, what are its dangers and what are its hopes.

Gentlemen, I am interested, I know I am interested, but what I have said in this case I do not mean to say in harshness to anybody connected with it. I know that on these prejudices, no man is responsible for his own; I know where they come from, I know their

depth, and I know where they lead the human mind and the human heart. I appreciate all of that. I know too the injustice and the terror and the outrageous wrong that they cost the weak and the poor.

Here is this case, gentlemen: I hate to leave it, but I must leave it. I want to leave no word unspoken that might help you to understand and judge these eleven blacks who are in your hands. I want you to free your minds of prejudice and your hearts of hate, and do justice in this case. I know you will try.

Gentlemen, here is a jury of 12 white men, and you are holding in your hands the lives and destinies of just about the same number of black people. It is not fair, but you are doing it, and you have got to see that it is fair.

Gentlemen, I ask you to use all of your judgment, all of your understanding, all of your sympathy in the decision of this case. I speak not only for these eleven people, but for a race that in spite of what you may do will go on and on and on to heights that it has never known before. I speak to you not only in behalf of them, but in behalf of the millions of blacks who look to these twelve white faces for confidence and trust and hope in the institutions of our land, and in the guarantees that the laws have made to them, those blacks who live all up and down the length and breadth of our land, and whose ancestors we brought here in chains, I speak to

you for those black people of Detroit who have come to work in your factories and your mills by the invitation of your men of business, and who must live or they cannot work. I speak to you in behalf of those faces that have haunted this court room from the beginning of this case, and whose lives and whose hearts and whose hopes and whose fears are centered upon these 13 men before you. I ask you gentlemen in behalf of my clients, I ask you more than everything else, I ask you in behalf of justice, often maligned and down-trodden, hard to protect and hard to maintain, I ask you in behalf of yourselves, in behalf of our race, to see that no harm comes to them. I ask you gentlemen in the name of the future, the future which will one day solve these sore problems, and the future which is theirs as well as ours, I ask you in the name of the future to do justice in this case.

Gentlemen, you twelve whites, with such intellects as have been given you, with such prejudices as have been forced upon you, with such sympathies as you have, and with such judgment as I can urge upon you, I ask you to understand my clients, and I ask in the name of the race, in the name of the past and the hope of the future, in justice to black and white alike, that you shall render a verdict of not guilty in this case.

THE COURT: We will take a few minutes recess.

(R E C E S S)

rose
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R.

Afternoon Session

Tuesday, November 24, 1935.

2 o'clock P.M.

THE COURT: I want before the proceedings are started to state to those who are here listening to the proceedings today, that, of course, this trial like all others is a public trial and the spirit of that requirement of the law has been very carefully kept during the course of this trial. However, it is my primary duty to see to it that this is first a calm, judicial proceeding. This is necessary for fair play. I state this to you now because I hope that no one will be so careless as to demonstrate his feelings in any way during the course of argument. If that is done, it will then become necessary for me to exclude everybody from the court room. I trust this won't be necessary, and it won't be if each of you feel your individual responsibility about it, also to various counsel and people who are within the rail and inside of the court, do not move around during the course of argument, or unnecessarily make noise. I understand that newspaper men will have to go out and they may feel free to do so, but do it with as little confusion as possible.

MR. HAYES: It has been suggested, your honor, there might be more room for spectators if the defendants want out and I am all for that. (laughter).

THE COURT: I am afraid we will have to keep them.

MR. HAYES: Gentlemen, I am not going to rehearse to you the matters which fell from the lips of Dr. Sweet except just to recall to your attention, first, the Burton incident, when living in the house with Mrs. Matthews with a child of eleven days old, and she fired a gun and was arrested, and the Turner incident of which you have heard wherein in the presence of the police, the mob tried to compel Turner to sell his house and ruin his property, and forced him out of the neighborhood, or the Fletcher incident when piles of coal were thrown at that house where a boy was hurt, and Fletcher, the inmate was arrested; or the incident of Bristol, and on American Avenue when after a mob violence of one night he then said he had 100 percent protection, and not before; except perhaps to recall to your mind the fact that not one person who composed the mob in any of these cases was arrested or brought before the law.

You know these things have a climatic effect; they grow and develop; they grow and develop in a man's mind; one incident may mean nothing, but you get a series of them and they mean just one thing, and it means a determined effort on the part of mobs to deprive American citizens of their rights; you perhaps have heard the story of the colored man as you have heard many stories of the colored man, who always, whatever happened, prayed to God and thanked him for all his blessings, and when he lost his wife, he got down on his knees and thanked God for all

that he had left, and he lost his children, and he thanked God for all that he had left, and he lost his farm, and he thanked God for what he had left, and one day being driven almost to poverty, he was out in the field with a team plowing as a laborer, and a stroke of lightning killed both of his horses, and tore all of his clothing off, and he got down on his knees and said "thank God for all your blessings, but this thing has become plumb ridiculous."

There comes a time when these things become "plumb ridiculous", and when you don't have the confidence and protection of the police that every American citizen ought to have.

Now, just as the developments in this case, see what a position a defendant is in, everything he does is used against him, good or bad, or indifferent. They say Davis, a narcotic officer, had a gun and the gun was in his pocket; that is evidence that he was going to shoot. The other defendants had no gun and put them aside; that is evidence that they were guilty. If they have furniture in the house, it is an indication they were not afraid to stay there, and there is no reason for firing; if they hadn't any furniture in the house, it is an indication they went to an unfurnished house with no accommodations, in order to provoke and assault so they could kill somebody. If they take the baby to the house, it is an indication that they are not afraid and there is no danger, and if they don't take the baby to the house it is an indication the other way. They did not take the baby and they didn't take their baby to the house. It is an indication they are going to shoot some-

body when that happens. If they had weapons in the house, it is an indication they are going to shoot somebody, and if they don't have weapons in the house, it is an indication they are not afraid. There isn't any fact from which a prosecutor or a persecutor can't dig up a case if he only has an opportunity to appeal sufficiently to prejudice. Now, when he asked -- the persecutor asked how about these bullets? There was a crowd there, why didn't it hit somebody in the crowd? Well, bullets are curious things. I think Mr. Zeng will probably agree to that. He saw them fly over in France, and another man saw them fly, his name is Davis over here, one of the defendants, and before that I want to say that one point in this trial I think my motion will touch more deeply upon than any other, and that is when Dr. Sweet was asked how he knew Davis was a soldier, and he said he saw him in uniform, and my mind conjured up the time of the return from France of these men with drums beating, and flags flying, and the music blaring out -- triumphant music and there were these brave soldiers returned, and it made little difference then, men, whether they were black or white because for cannon fodder, the black man was quite as useful as the white, and yet, today, that man, a narcotic officer, trusted by the United States Government, with a right to carry a pistol as all of you men know, was in that house for not more than three minutes and somebody else fired and they put him in here as a defendant and kept him in jail, and the fact that he had a

very clear - it shows that someone shot with it from the
gun by the right and power of United States Government is
be fired over the heads of the crowd and that is
used as evidence against him - - little thought of the
there and everybody has testified to a crowd in front
soldier now.

But, now, let us come back to these bullets. Why
didn't they hit more in the crowd. I know why they didn't
hit more in the crowd; I know that if the people inside
of that house were shooting to kill, there would have been a
lot of people hurt. There were groups of people over here
on Charlevoix Avenue and there were shots of this window -
why didn't those shots hit anybody? Because they were shoot-
ing from the window in order to frighten people, and then
Henry Sweet said, " - He said that he shot over the heads
of the crowd in order to frighten people, and that explana-
tion, of course, why a man was hit back here, we will dis-
cuss that later on. As to Henry, I think it is plain the
bullet didn't come from his gun because he shot between the
house and store and there were bullets in the upper floors
and bullets through the door and it is perfectly evident
they were shooting over the heads of a crowd, and that is
why a man back in the yard was struck if the bullet came
from there, and I don't know whether it did or not, but
aside from that, as I said before, bullets are curious
things. Mr. Zeng, I have no doubt knows of a case over in
France where bullets would come along and for some unknown
reason one man out of a dozen was struck. How does it
happen? Purely a matter of accident, but of course, the
fact that a man in the yard here is struck, it is very,

very clear - it shows that nobody fired with intent because
he fired over the heads of the people who were in front
there and everybody has testified that people were in front
there. One witness saw from this point 75 feet south of
this corner, to about here, saw 75 people and another pro-
secuting witness saw 75 from there to there beside 15 in
this yard and 5 here, and if these men were shooting to
kill, well, there would have been a tragedy, a real tragedy
and a good many people would have been killed.

Well, Mr. Hall made comment about our friend Smith
on the witness stand. That is another illustration of how
we treat colored people. The Smiths were asked why they
didn't go to the police and make complaint - - why didn't
they - why, here are three of them on the witness stand
under oath who were in the machine, and told what happened
to them that night, and the prosecutor says it's a lie made
out of whole cloth - - quite useful, isn't it, to go to
public authorities under those circumstances where even
the state under oath - - somebody says it's a lie. Is that
story true or isn't it; do those men remember whether they
were assaulted or not. I was rather proud of the old man.
I thought he was quite a character. "I goes where I please
and gets out where I please and have dinner where I please,
and I pays my bills." That is a lot - a lot of white men
don't do it, but he was certainly a frank witness, and
he certainly told what he saw. The incident about the
clock, is it untrue because a man didn't remember on what

corner a bank stood with a clock above it? Think of it! although three men testified to it and all of you men stated when we examined you that the fact that a man is colored will not make you doubt his story, if you believed the same story from a man who is white.

Now, let us see particularly what this crime is. The defendant premeditatedly and with malice aforethought -- imagine premeditatedly and with malice aforethought, firing from a house with policemen around the street so they can come in and get them but that is what they claim, premeditatedly and with malice aforethought banded themselves together and banded themselves with a common understanding and agreement that one or more of them would shoot to kill in the event of first being threatened or actual trespass upon the property wherein they were assembled, or the infliction of any damage, real or threatened however slight to the persons or property of them. Have you heard a word of evidence about any such agreement? Have you heard a word about any such agreement. And further, and it is further alleged that they were aided and abetted by all the others in pursuance of their common understanding as above set forth. Understanding -- is there any word about any understanding. Here is a house with 11 people in it, some have firearms and they were in different states of terror, some very much frightened and some presumably terror-stricken, and shooting breaks out and there is an agreement among 11 people and not one word of an agreement.

I want to tell you men on the jury something I believe his Honor will instruct you and that is that they haven't made a case out under such an agreement, and yet that is the best case that this prosecutor could think of after preparing this case, and I believe his Honor will not instruct you because there is no evidence to that effect, and if he does instruct you to that effect, that there was no such agreement, then you men can draw your own conclusions as to whether or not there was a crime because that was the very best crime the prosecutor could think of - a crime made an agreement to do this thing with policemen present with a penalty apparent, but with no motive whatever, and I must say in what experience I have had in criminal courts, I never yet have found a man on trial - on trial for a serious crime, when he had no motive to commit that crime. Oh, yes, there was a motive to fire in self-defense but that is no crime, and you men can work your imaginations all you please and develop all your ideas and thoughts, and if any of you are against us, and you can search very far for any motive for anybody to fire a shot unless he thought he was in danger. Now, to the solution of this case, it is to me largely in the attitude of the policemen. They were, I think you will all agree, rather unsympathetic with the people; they were on the job but not to give 100 percent protection until afterwards. This story is rather suggested by the occasion. A boy was walking along the street, and he was carrying a witness stand. Would you rely upon any witness stand

pussy-cat in his arms, and he was yowling his little head
 off, and along came a minister and said "what is the matter,
 my poor boy," and he said "I am so sorry for the poor
 pussy because in a minute I am going to knock the spots off
 of it." Oh, the policemen were very sympathetic and the
 whole knob and bottom of this case, and the text of what I
 say to you can be developed by a question asked by Mr. Nelson
 "You remember the policemen went on the roof, nothing was
 happening there before the shooting, and yet people gathered
 from all corners and two policemen were standing up on the
 roof and he put his head down - - he dodged behind a parapet.
 Mr. Nelson said then, "How could you see what was going on"
 and he answered, - - and very often these questions came
 from jurors where attorneys overlook them, and when they are
 on your side, you are always pleased, but when you are not
 you are a little discouraged. Mr. Darrow said "You could
 not see without exposing your head, could you?" And he
 answered "No, sir," and Mr. Darrow said that is a pretty
 important part of the body of a policeman" and he answered
 "Yes," "The head is or should be an important part of the
 body of a policeman, and on that head should be ears and
 ears to hear, whether he is prejudiced against people or
 whether he is not, because it is his duty to maintain
 order, and in that head should be eyes, and eyes to see
 and in other parts of the body should be an honest heart
 with an honest intention to perform his duty, and with
 an intention to tell the truth if he is called to the
 witness stand. would you rely upon men to protect your

home, if you saw missiles being thrown from all directions
 and would you rely at all on them if they were ready to
 get on the witness stand and under oath swear away your
 liberty, because it isn't possible, gentlemen of the jury,
 that all these policemen were telling the truth because no
 two of them told the same story, and that bring us to the
 question of Dr. Sweet's statement in the police court. Oh,
 that is a revelation to an American citizen. It ought to
 be a matter of pride to you men of Detroit. He is taken
 down to the police station; he makes a statement, and he is
 asked why he didn't open up his heart to these kind friends,
 the policemen; why did he tell them anything that wasn't so;
 why, he used his judgment as to what to tell them. When
 he was here, he was under oath, and he was told to tell
 the truth because there was no danger in the truth. He
 used his judgment and he was right, and Henry Sweet, Henry
 Sweet told the truth, and when you make a statement to a
 policeman, whether you tell the truth or not, whether you
 don't tell the truth, they use it against you. It is for
 the purpose of fair play, is it? Well, do they play fair
 when you tell the truth or do they play fair when you try
 to avoid these pointed questions? But not only policemen
 but prosecutors should know something of the English and
 American history. They denied this man a lawyer and since
 1238, in England, a man has been entitled to a lawyer and
 that has been going on for centuries and our own law is
 that no man shall be compelled to incriminate himself

the witness stand and under oath to -

and the reason why people should know that, and the reason why people should have a lawyer is found way back in the history of the middle ages when in those days, they resorted to torture to get the truth, and they put a man on the racks and pulled their limbs until a man would state anything that his torture demanded that he state, and of course, it never got the truth because when people suffered enough they would tell anything, and when men are in a mental state such as these men, they will tell anything, but when they are not frightened, they will use their judgment in what to tell, and right along in those days, when we didn't have an Anglo-Saxon system doing justice, when we used the ordeal by battle, when members of families would fight it out or have ordeals by fire or water, and try a man by taking a red hot poker in his hand or plunging his arm into boiling water, and if he was unscathed he was innocent, and they would throw him into a river, and if he sank, he was innocent, and those were the methods of trying cases, and determining justice in those days, but today in the United States no man can be compelled to incriminate himself, and a man is entitled to know and to be told that anything that he says may be used against him, and they do that in communities where your prosecutors are fair, but here they not only failed to tell that to Sweet, but they denied them -- denied the right to have him a lawyer -- to have a lawyer. After all, gentlemen, what does it amount to -- the statement isn't sworn to -- we all know the circumstances

under which it was given, and I want you men in your own minds to compare Sweet down in the police station, with these people presumably his friends, presumably his friends, with those policemen when they were on the witness stand under oath, and what they say and what they said, one is perjury and the other is the attitude of a normal man, and is that anyone of you men would do and which you would do if you were suddenly caught and in difficulty, and didn't know your rights, and if you thought you might get a beating up if you refused to answer questions that they had no right to ask. Oh, they treated him in a gentle way. Mr. Kennedy had a very swelling, soft, quite unthreatening voice. He never raised his voice any more than Mr. Well raises his voice, that is the evidence in this case.

MR. TONS: It was mine.

MR. HAYES: No, Mr. Well and I heard Mr. Well raise his voice this morning and I gathered if Mr. Kennedy in a threatening manner or unthreateningly raises his voice as Mr. Well often raises his voice, he would pretty nearly scare a man to death from whose swelling another fellow was shot. Why, what poppy-cock to claim that a statement like that indicates that a man on the witness stand isn't telling the truth. Well, Mr. Well said that possibly you men would be moved by eloquence. I wish I had the eloquence to move you; I wish I had the tongue of Demosthenes or the tongue of Cicero, or I wish I had the tongue of Frederick Douglass, the great negro orator, and your property or your life, you can't get it back.

any of those men to bring home to you what this case really means, but not having it, I am going to read a few cold words from just a few cases of law, and from these cases of law, and the prosecutor has access to them as well as we have, you men will decide who ought to be on trial here, these eleven defendants or the members of the Water Works Improvement Association.

MR. TOMS: I object to counsel reading from law books to the jury. It has been held improper in this state repeatedly.

MR. HAYES: I am not going to read from the books - read law from the books, but I am going to read what the courts in this state say about mobs, and felonies by mobs.

THE COURT: It is improper argument.

MR. HAYES: All right, sir, well, gentlemen, I won't read from this, but the case I would have read from, if the court will permit - if the court had permitted me, says that probably no case - - if this is permissible, your Honor, for me to state - -

THE COURT: Thus far, but don't elaborate on it.

MR. HAYES: No case can arise ^{where} the threat of any single individual is as terrifying as the threat of a mob; that anybody with any human experience knows how the unbridled passions of men get hold of them, and when they are all together in a mob and when there is this prejudice, a person's life is not safe, and whereas in case of a threat by an individual and you think he is after you and your property or your life, you can shoot - everybody

knows that terror inspired by a mob is a good deal greater and more severe and if I had been permitted, I should have read from the 18th Michigan where the court refers to the fact that mobs rarely draw a line between felonies and misdemeanors when they get the bit in their teeth, they go to any length that they deem necessary, and had the court permitted me I should -- I should have liked to have done it because the attitude of the courts of Michigan -- I should have liked to have read youmen what the courts have said of Michigan -- have said about the rights of colored people -- how the courts have said instead of being more severe with people who are living in the community than those who are not; we ought to be more tender and more merciful and look at them with a slightly different eye than we look at ourselves because the pressure on them is so much greater.

Now, there is one other phase I wish to touch on, and that is the question of the bullet that killed Briener. Now, I suggested before that it might have been the policeman's bullet or any policeman's bullet. I want to make myself perfectly clear on this. If one is cut by a buzz saw he can never tell which tooth cut him, and it is not up to us to prove which bullet killed Briener; it is up to the prosecutor to prove beyond a reasonable doubt that Briener was killed by a bullet -- they say from these defendants, but I say under Anglo-Saxon law from one of these defendants, before you can find anyone guilty, you can't find it guilty if you cannot find the one guilty,

believe Cill when he says that he saw the bullet fired, and you can't find it guilty because somebody may have fired there was no cooperation when they shot at the witness - a shot and it is up to them to prove beyond a reasonable doubt which tooth of the buzz-saw cut some one that was cut. turned into the police station - I don't believe I would let us see what the facts are, and I don't believe I would suggest this to you men if I didn't have some doubt myself, and no man can fail to have doubt. In the first place, take the testimony of the physician - - where did this bullet strike? Well, he pointed it out right to the body - here it is right about here - right there, indicating. Mr. Darrow asked pretty near straight and his answer was "Almost on a level". Mr. Darrow said "Went straight through the person, practically on a level," "Answer: On a level. "Question: Both up and down and sideways? "Answer: Yes." Now, there is one thing that is a physical impossibility and that is that a bullet can go from up above - - could have struck a man and not have made a diagonal line and there was only one man firing there from the level, and that was a policeman, and I was very much interested when they asked Hill on the stand a Tennessee policeman who probably had no laws for colored people, and there is another indication of the efficiency of the police department when they send two or three Southern men there to protect colored men. Well, Cill - - I was waiting for the prosecutor to show when he got to the police station that he turned in his revolver and made his report, and showed the other chambers were full and only one shot had been fired, and much to my amazement they did not show that, and I didn't

believe Gill when he says that he fired only one shot, and there was no corroboration when there might have been corroboration -- where is that gun. That gun presumably was turned into the police station - I don't know how to work this. Can you open this chamber for me?

MR. TOMS: I was going to say yes.

MR. HOLL: Tap it on the floor. I will get it open for you.

MR. HAYES: Well, alright, I will take it as it is. I suppose this gun was turned in to the property clerk at the police station. That gun when it was turned in, I presume had eight cartridges in it, and one cartridge shell that was empty if what he said was the truth.

MR. TOMS: Eight.

MR. HAYES: Seven.

MR. TOMS: Six.

MR. HAYES: I presume it had five cartridges in it and one cartridge chamber, and if what Gill said was true, that he fired just one shot, why hasn't that revolver been presented to us, the judges of the facts, to show that only one chamber of this revolver had been fired? I don't know - I see no explanation of it. It is within their power to do it. Perhaps nobody thought of it, but how could anyone avoid thinking of it in preparing this case if that man fired just one shot - isn't there some other officer who can testify to it - isn't there somebody who immediately received his revolver and could tell that the other chambers

were full and when they present this revolver before us in the shape that it was in when it was turned in by Gill if his testimony is correct, and the revolver would be in that shape. Gentlemen of the jury, if it would help the prosecution to have it in that shape, because they prepare their cases pretty carefully - I know I am not talking to Mr. Toms because I have a high regard for Mr. Toms. I am talking of police officers who prepare the statements for lawyers. Now, then, with that being the situation, I had some doubt - - I found a bullet going straight through - - I found that they produced a revolver without showing from the revolver that only one shot was fired, and having that doubt, we went up there and took photographs and we found Gill on direct examination saying he was to the north of that garage, and on cross examination he said he was to the east of that garage. Why did he change his testimony? Why did he mis-state it at one time, so we took photographs from the place where Gill was standing, and it isn't shown in this plan that it is a straight line, but there is a straight line from here over to there. Now, gentlemen, I don't argue from that that it was a bullet from the policeman's gun that killed Briener - I don't know anything about it. I have my doubts but it isn't up to me, as I say, to prove which tooth of the buzz saw cut the man. It is up to the prosecution to accomplish that impossible task. And although I had some doubt at the beginning, my doubts have been very much strengthened

and re-enforced by what has happened during the course of this case. After all, what have you men to go on in this case against these defendants - - it is mostly circumstantial evidence, that is, you know that certain shots came from the house and so do I, but we don't know which shot hit this man - I don't know, and of course, there is always a danger in circumstantial evidence. I remember a juror once being called and asked whether he would convict a man on circumstantial evidence and he said that he would not. He said when he was a boy he went once to the closet and stole some jam and not wanting his father to get him, he put the pussy cat up on the top shelf and smeared his paws with jam, and the pussy cat went to the wood shed when the father came home that night and he killed the pussy cat, and he said since then that he would never convict anybody on circumstantial evidence, and the courts are so careful about it that this is the rule of law, that you can't convict on circumstantial evidence if the facts proven in the case are consistent with innocence. In other words, they must point absolutely and beyond a reasonable doubt to guilt. Well, now, the facts here to me point beyond a reasonable doubt to the innocence of these people. These people were there for a lawful purpose; they shot because they thought their lives were in danger, but the prosecution has to convince you men beyond a reasonable doubt that these facts are inconsistent with innocence, and point only to guilt.

Now, what are the facts they have established?

There were arms in the house, that is consistent with a lawful purpose, using them for self protection, ammunition in the house, that is consistent with an innocent purpose. Why, if Sweet had not gotten arms and ammunition in the house under the circumstances, related here, with the threats Mrs. Smith had received from neighbors that they were going to kill her, and kill Sweet and destroy his property, if he hadn't gotten something in there to protect himself with, why, he would have the respect of none of us - the man would have no brains, he would deserve - he would not deserve a home if he wasn't ready to take steps to protect it, and as having arms and ammunition there, is supposed to be some indication of a conspiracy to kill with policemen on the outside, and what else have they - a little furniture in the house. The reason for it is perfectly clear - friends in the house with no accommodations - friends of these eleven defendants, eight of them were living in that house, why shouldn't they be there - where should they be - and the other three are brought there for protection. The fact that men were in that house under the circumstances related here, with a night of terrorization and the prospects of trouble, and they had been threatened with trouble that very night, are these things inconsistent with innocence? Why then they point to innocence and absolutely inconsistent with guilt.

Now, I don't want to lay any stress here upon the history of the colored race. The thing ought to be clear to you gentlemen. Sweet had no more right to do -

to shoot than any other man would have to shoot under those circumstances, but of course Sweet didn't shoot. It was somebody upstairs who saw what Sweet saw. It is perfectly clear he didn't shoot. He was downstairs and neither did Otis nor did Davis nor did Mrs. Sweet and there was some other man downstairs - I have forgotten who it was. The history of the colored race and these things were talked over among them as they are talked along by our colored men, and it is a terrible story, from the story of Anthony Crawford who was lynched while Sweet was at school down there because he refused to sell his cotton at less than the market price, and was clubbed over the head by a white man, one of the most respectable men in the community, taken out by a mob and lynched, and the women and children watching the lynching, from that story to the time in Washington - -

MR. TOMS: Is there any evidence that the women and children were watching the lynching?

MR. HAYES: Well, he said so - if I state anything he didn't say, of course you will have to take your recollection instead of mine, but there were women and children in the Chicago riot, and Sweet did testify that women and children were killed in Chicago, and homes burned and nobody will deny that, and Sweet was in Washington at the time of the riots there, and in East St. Louis Dr. Jackson, the best known colored physician in the country was killed after he quit befending his home and had gone

with a policeman, and on the way to a concentration place, and the mob shot him down and the Johnson Brothers were killed in Arkansas, and killed by a mob in cold blood, but says the prosecution, nothing like that has ever happened in Michigan; nothing like that has ever happened in Michigan. Well, gentlemen, we don't want it to happen in Michigan; we don't want it to happen in Michigan. There have been lynchings here, a great many years ago, but of course this problem has only arisen in the last few years. From five thousand negro population the numbers have grown to about 80,000 and at the same time Southern whites, the numbers have grown so that today there are perhaps four times as many people prejudiced from birth against colored people as they were before; and it is in those times, and under those occasions that these things begin to happen just as they happened in Chicago when the colored population grew and the people came in there from the outside, and they burned houses and killed people and they dragged colored men off of the cars and shot them down - yes, white people were killed too - white people were killed too, and the whole thing was a disgrace to civilization. It indicates that beasts we are when our passions get hold of us. Beasts like these people of the neighborhood who one after another came in here and testified how anxious they were to keep colored people out of the neighborhood, and who testified that they didn't sleep well, and that they wouldn't hurt them, and then they came here and swore on the witness

do not think, and that is when the mob came and they

stand there was no crowd and they saw no people, when as a matter of fact, seventy or eighty people, or fifty or sixty people congregated there and those are the passions that get hold of men and get hold of women and children too, and it comes to them from the cradle. There is an old colored poem - a poem by a colored poet who was once riding in old Baltimore. "Once riding in old Baltimore, head filled, heart filled with glee, I saw a Baltimorean looking straight at me, and I was eight and very small, and he was no whit bigger, and so I smiled but he stuck out his tongue and called me 'nigger.' I saw the whole ^{of} Baltimore from April to December, of all the things that I saw there, that is all that I remember." And yet, you expect within an education like that, with children brought up opposed, white children who have the prejudice and bigotry and hatred instilled into their blood, that they are not going to be afraid of white men when they gather in a mob. Why, before the birth of a colored child in this case over in Paris, the American Hospital to which Dr. Sweet had contributed, prejudice was shown when they took his money but refused to bring his child, and that baby, a year old. Now, is the father and mother in jail and they have been for three months because of the prejudice of white people and that baby's life, gentlemen of the jury, is going to be difficult enough; there is not much that anybody can do to make it any better so long as neighbors are prejudiced, so long as neighbors make their lives a hell, but you can do something, you can do something, and that is when the bells ring on Thanksgiving

Day and the peons of joy are in every heart, you can give
this family an opportunity to gather together and thank God
they live in America; their case tried by a jury of twelve
honest men.

Gentlemen of the jury, we can go back over
centuries for the roots of these things, a man's home is
his castle in Anglo-Saxon history and in American history,
and we can go down to the Declaration of Independence which
at that time didn't apply to colored people, but where it
is stated "We hold these truths to be self-evidence, that
all Americans are created equal, that they are undoubtedly
by their creator, with certain unalienable rights, that
among these are life, liberty and pursuit of happiness,
and after reciting the oppressions that the colonists
had suffered at the hands of England, the Declaration
states, "In every stage of these oppressions we have
petitioned for redress in the most humble terms, our re-
peated petitions have been answered only by repeated in-
juries," and that gentlemen of the jury could be stated by
these colored people, and the second amendment of the
Federal Constitution of the United States says, "The
right of the people to keep and bear arms shall not be
infringed," and the Michigan Constitution, Article II,
Section 5, says "Every person has the right to bear arms
for the defense of himself and the state," and yet the
having of arms in a case like this where they were neces-
sary, having the arms is regarded as an indication of
guilt, and then we come down to the time when the colored

man received these rights, and we come to the emancipation proclamation, and there is a sentence in it, very significant and Abraham Lincoln said, "By virtue of the power and for the purpose of the aforesaid, I do order and declare that all persons held as slaves within said designated states and parts of states, are and henceforth shall be free, and that the executive government of the United States will recognize and maintain the freedom of said persons, and I hereby enjoin upon the people so declared to be free to abstain from all violence unless in necessary self-defense" and he said "and upon this act, believed to be an act of justice warranted by the Constitution, invoke the considerate judgment of mankind, and the gracious favor of Almighty God."

Gentlemen, freedom isn't made by an emancipation proclamation. Freedom is not made by any pronouncement. Freedom is made by the recognition of every citizen of the right of others. You can make other people free or you can make other people slaves, and the neighborhood improvement association engaged as I say in a lawless scheme, and I think his Honor will charge you that it was a lawless scheme, wanted to be masters; they wanted to make other people slaves.

Gentlemen of the jury, the opportunity doesn't come often in life to do a great act - the writing of the emancipation proclamation for a nation is given to few and yet, you men here have an opportunity to write a charter

of freedom, not for all men, but for a race; for an oppressed race; you have an opportunity to write that charter of freedom by your verdict, and when I say a charter of freedom, I am referring not merely to a verdict of not guilty, but I am referring to a desire and a wish that I have that when you men go into that jury room to ponder over this case, that you yourselves will write out a declaration of the way colored people are oppressed, and if you do that, gentlemen of the jury, you will do more to end all of the outrages than all the race commissions appointed by all the mayors of all the cities, of all the states, of these United States.

THE COURT: We will take a recess.

(R E C E S S)
